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Monday
January 27, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: January 31, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202-523-5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AE08

Federal Employees Health Benefits Program: Direct Payment of FEHB Premiums for Annuitants

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its previously issued interim regulation that implements section 1 of Public Law 101–303. This section of law allows all annuitants to make direct payment of premiums for their Federal Employees Health Benefits (FEHB) coverage when their annuity is too low to cover the insurance premiums. Previously, only annuitants in the Federal Employees Retirement System (FERS) were allowed to make direct payment of their FEHB premiums.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606–0191.

SUPPLEMENTARY INFORMATION: On June 6, 1991, OPM issued an interim regulation in the **Federal Register** (56 FR 25995) that implemented section 1 of (Pub. L. 101–303) by providing that annuitants whose immediate or survivor annuities, excluding annuities of the Thrift Savings Plan, are insufficient to cover the withholdings required for enrollment in a particular FEHB plan may enroll, or remain enrolled, in such a plan by paying the FEHB premiums directly to the retirement system.

The regulation provided that any annuitant whose enrollment has been terminated because his or her annuity was insufficient to cover the withholdings for the plan in which he or she was enrolled may apply to his or her retirement system to be reinstated in any available FEHB plan or option. In addition, any annuitant who can show evidence that he or she changed enrollment to a lower cost option or plan, or to a self-only enrollment because his or her annuity was insufficient to cover the withholdings for the plan in which he or she was enrolled, may apply to his or her retirement system to change his or her enrollment to any available FEHB plan or option in the FEHB Program in which the enrollee's share of the total premium exceeds his or her monthly annuity.

The regulation specified that the annuitant may choose the effective date of the reinstatement or the change of enrollment to be either the 1st day of the 1st pay period that begins after the health benefits registration form is received by the retirement system; or, the later of the date enrollment was terminated or changed, or May 29, 1990. Retroactive reinstatement or change of enrollment is contingent upon payment of appropriate premiums retroactive to the effective date of the reinstatement or the change of enrollment.

OPM received comments from one insurance carrier. The commenter expressed concern about the provision of the regulation which allows annuitants to choose the effective date of the reinstatement or change in enrollment. The commenter believes a potential exists for increased administrative costs resulting from adjusting enrollment records and retroactively paying claims if the annuitant elects a retroactive effective date.

We do not foresee the retroactive enrollment provision of the regulation resulting in significantly increased costs for two reasons. First, based on our experience to date, we do not expect a large number of individuals to choose to retroactively reinstate or change their enrollment. Second, any extra and appropriate administrative costs a carrier might incur would be chargeable to the Federal contract; therefore, the carrier itself would suffer no loss.

The commenter also suggested that specific guidelines be established to ensure that new enrollments are submitted to carriers in a timely manner. We appreciate the carrier's concern regarding prompt submission of new enrollments. Therefore, we are developing guidelines which will make more explicit to appropriate offices the procedures for ensuring the timely processing and reconciliation of enrollments.

The commenter also suggested that guidelines concerning termination of coverage for nonpayment of premiums should be established. Guidelines concerning termination of coverage for nonpayment of premiums are already established. These guidelines are located in paragraph 890.502(f)(4) of title 5 of the CFR. The guidelines were issued in interim and final regulations published in the **Federal Register** on October 22, 1987 (52 FR 39493) and August 25, 1988 (53 FR 32367), and applied solely to annuitants of the Federal Employees Retirement System. This final regulation amends 5 CFR 890.502 to extend the coverage of the guidelines concerning termination of coverage for nonpayment of premiums to all annuitants.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal annuitants and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is adopting its interim regulations under 5 CFR part 890 published on June 6, 1991 (56 FR 25995), as final rules without change.

[FR Doc. 92–1855 Filed 1–24–92; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-89-204]

United States Standards for Grades of Tomato Catsup

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations and in response to a petition from the Indiana Food Processors Association, Incorporated (IFPA), the Agricultural Marketing Service (AMS) is revising the United States Standards for Grades of Tomato Catsup. This final rule changes the U.S. grade standards for tomato catsup by: (1) Revising the scoring for consistency; (2) replacing dual grade nomenclature with single letter grade designations; (3) providing for use of other methods or devices that are approved by USDA to determine catsup color; and (4) removing § 52.2112, score sheet for tomato catsup. The effect of this revision will be to improve the standards, encourage uniformity in commercial practices, and facilitate the marketing of tomato catsup. As most catsup available to consumers is sold at retail by brand name and not U.S. Grade, this revision is not expected to materially affect the ability of consumers to select from a wide range of catsup with varying consistencies. No significant changes in brand formulae are anticipated. State and Federal food buyers that incorporate U.S. grade standards for quality grades as part of their specifications will, however, be able to purchase somewhat thicker catsup than they now can. Under this revision catsup which flows more than 10.0 centimeters (low consistency) could be commercially marketed but would not be compatible in quality with the U.S. Grades.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 0709, South Building, P.O. Box 96456, Washington, DC 20090-6456, Telephone (202) 720-6247.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more.

There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601 et seq.), because it reflects current marketing practices. In addition, use of these standards is voluntary. A small entity may avoid incurring additional economic impact by not employing the standards.

The United States Department of Agriculture (USDA) received a petition from the Indiana Food Processors Association, Incorporated (IFPA), requesting that the U.S. grade standards for tomato catsup be revised to reflect prevailing processing techniques, procedures, and tomato varieties that have provided processors with the ability to produce tomato catsup of a higher consistency (resistance of a fluid to deformation i.e., apparent viscosity). Consumers have demonstrated a preference for such tomato catsup, and IFPA believes that U.S. Grade A should include higher consistency requirements. In their petition, IFPA specified their recommendations for those requirements.

USDA reviewed their petition and contacted IFPA for further clarification regarding their recommended changes. Upon completion of the review, USDA determined that changes in the standards for catsup consistency, as well as other changes involving the grading nomenclature and score sheets, should be proposed.

Large core tomato varies were used for processing when the current U.S. grade standards were last amended in August 1953. These tomatoes are slightly higher in natural tomato solids (i.e., sucrose and other sugars, fruit acids, and mineral salts), but lack the consistency level of coreless tomatoes. Due to the development and increased use of coreless tomatoes by the industry, the texture and viscosity of tomato catsup on the market have changed to a higher consistency.

Tomato catsup consistency is determined by Bostwick consistometer readings, which measure the distance a specific volume of catsup flows in 30 seconds on a level plane. This method reflects the resistance of the catsup to flow and the tendency of the liquid portion of catsup to separate from the insoluble solids portion.

Graders are instructed to assign score points according to the consistometer readings, expressed in centimeters (cm), and the measurement of apparent free liquid. Low consistency catsup flows farther than high consistency catsup. Under the current system outlined in the grading manual, consistency readings ranging from 4.1 to 5.5 centimeters represent optimum consistency and are assigned 25 score points, the highest possible score assigned for U.S. Grade A catsup. Lower score points are assigned relative to how far catsup will flow as compared with this optimum range. For example, tomato catsup with a consistency range of 3.6 to 3.7 centimeters or 6.6 to 7.9 centimeters cannot be assigned a score of more then 23 points. In this example, higher consistency catsup (3.6 cm) scores the same as lower consistency catsup (7.9 cm), falling within the currently defined range.

To conform with the apparent industry practices and consumer preferences. USDA proposed to amend the standards so that higher consistency or "thicker" catsup could be assigned a higher score and lower consistency or "thinner" catsup assigned a lower score. Appropriate modifications to the "Grading Manual for Tomato Catsup" would be made once the grade standards revision became effective.

Under the proposed rule, catsup with "good consistency" ranging from 3.0 to 7.0 centimeters, would be graded U.S. Grade A or B. Within the "good consistency" range, the highest score points would be assigned to the highest consistency (3.0 centimeters) catsup. Catsup falling outside the range for "good consistency," but flowing not less than 2.0 centimeters nor more than 10 centimeters would be graded U.S. Grade C. Within this "fairly good consistency" range, the highest score points would be assigned to catsup approaching "good consistency." Most tomato catsup in the marketplace today would meet the proposed range for U.S. Grade A and B.

The proposed rule would also replace dual grade nomenclature with single letter designations in accordance with recent agency practices. "U.S. Grade A" (or "U.S. Fancy"), "U.S. Grade B" (or "U.S. Extra Standard"), and "U.S. Grade C" (or "U.S. Standard") would become "U.S. Grade A," "U.S. Grade B," and "U.S. Grade C," respectively.

The proposed rule would provide for the use of other methods or devices to determine catsup color. These methods or devices must be approved by USDA and must give results equivalent to the combinations of Munsell color discs for the respective grades.

Finally, the proposed rule would delete § 52.2112, "Score sheet for tomato catsup" from the U.S. grade standards. The score sheet imposes no requirements other than those found in the standards. Reformatting or amending the tomato catsup score sheet is a time-consuming process that can be facilitated by editing the score sheet as a document not incorporated in the grade standards. This change is consistent with the format for recently revised grade standards.

Proposed Rule

The proposal to revise the U.S. Standards for Grades of Tomato Catsup was published in the **Federal Register** on March 28, 1991 (56 FR 12855). The USDA press release announcing the proposed revision was carried by most major newswire services and generated a significant response. One hundred and thirty (130) comments were received regarding the proposal. One hundred and twenty-four (124) comments were from consumers, four comments were from industry members, one comment was from a food processing association, and one comment was from a government procurement agency. Consumers' input was very useful. They commented on the change in scoring consistency (thickness) in catsup and made other significant comments. For the most part, consumers expressed satisfaction with the consistency level of catsup in the marketplace at the present time.

Many consumers indicated that catsup doesn't need to be much thicker and further indicated there is an upper consistency limit after which extracting catsup from the bottle becomes very difficult. Many consumers made other comments indirectly related to the thickness of catsup. Twenty percent of consumers commenting specifically mentioned that the bottle or container should be designed differently, suggesting a wide-mouth opening or other design changes to facilitate removal of the food product from its container. Several consumers indicated that removing thick catsup from narrow neck bottles is difficult for elderly consumers, especially if they suffer from arthritis or similar conditions. A substantial number of consumers specifically indicated a preference for thicker catsup.

One major catsup producer, claiming 50 percent and 70 percent of the market share of retail and food service sales respectively, was fully supportive of all of the recommended changes, stating that the changes should be incorporated in the U.S. Standards for Grades of Tomato Catsup.

Another major catsup producer and a food processors' association supported all of the proposed changes but further recommended that catsup with a consistency lower than 3.0 centimeters not be graded lower than U.S. Grade B. Their comments, which were similarly worded, apparently recommend that high consistency catsup not be graded lower than U.S. Grade B for consistency.

USDA considered these comments and would be willing to consider such a change based on evidence showing that the marketplace would benefit. However, no data were provided to show that the marketplace would benefit from assigning U.S. Grade A & B consistency to all high consistency catsup (0.0–7.0 cm). The Department notes that consumer comments received in response to this Notice of Proposed Rulemaking suggest that there is a point where high consistency catsup is synonymous with excessively stiff catsup.

One tomato catsup producer citing fifty years of experience packing catsup, stated that thickness is not necessarily the result of better ingredients and further stated that catsup should have a good consistency but not be like (tomato) paste. USDA agrees that catsup consistency should not be so thick as to resemble the consistency of tomato paste.

One other tomato catsup manufacturer was concerned about the eliminating the term "U.S. Fancy," claiming that 30 percent of their private label customers use the term rather than "Grade A." This commenter also requested that the minimum Bostwick requirement for consistency be lowered to 2.0 cm or dropped entirely from the grade standards suggesting that catsup products with consistencies below 3.0 cm may suffer a potential economic penalty by not being considered as U.S. Grade A.

It has been USDA policy to simplify grade nomenclature by removing additional terms. This revision replaces dual grade nomenclature with single letter designations in accordance with recent agency practices. "U.S. Grade A" (or "U.S. Fancy"), "U.S. Grade B" (or "U.S. Extra Standard"), and "U.S. Grade C" (or "U.S. Standard") would become "U.S. Grade A," "U.S. Grade B," and "U.S. Grade C," respectively. The Department believes that this change makes U.S. grades clearer and easier to use.

With respect to the manufacturer's second concern, and as noted in earlier comments, while consumers prefer thicker catsup, there is an upper limit where catsup becomes unacceptably thick. We note the absence of any data in the record supporting the marketing utility of catsup with a consistency below 2.0 centimeters. Therefore, the request for this change will not be included in the final rule.

The Defense Personnel Support Center (DPSC), an agency of the Federal Government which buys food for the U.S. Armed Forces, commented on the ability of one major catsup producer to meet the Government agency buyers' existing specifications. DPSC purchase of tomato catsup historically cited U.S. Grade A. If their procurements continue to do so, they would be affected by this rule.

Final Rule

Upon review of all the background information and public comments collected during the rulemaking process, USDA determined that this final rule for the United States Standards for Grades of Tomato Catsup appearing after this preamble should be published in the **Federal Register** and become effective 30 days after publication.

List of subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For the reasons set forth in the preamble, subpart-United States Standards for Grades of Tomato Catsup (7 CFR part 52.2101–52.2112) is amended to read as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

§§ 52.2101-52.2111 [Amended]

2. In Sections 52.2101–52.2111 all references to "U.S. Grade A or U.S. Fancy," "U.S. Grade B or U.S. Extra Standard," and "U.S. Grade C or U.S. Standard" throughout Sections 52.2101–52.2111 are revised to read "U.S. Grade A," "U.S. Grade B," and "U.S. Grade C," respectively.

3. In Section 52.2106, concluding text is added at the end of paragraph (a) and paragraphs (b), and (c) are revised to read as follows:

§ 52.2106 Color

(a) * * * Any method or device approved by the USDA (including electric color meters) which gives equivalent results may be used.

(b)(A) and (B) classification. Tomato catsup that possesses a good color may be given a score of 21 to 25 points. "Good color" means that the color is typical of tomato catsup made from well-ripened red tomatoes and which has been properly prepared and properly processed. Such color contains as much or more red than that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color: 65 percent of the area of Disc 1; 21 percent of the area of Disc 2; 14 percent of the area of either Disc 3 or Disc 4, or 7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the reflectance of the tomato catsup. To receive a score in this classification, tomato catsup, when packed in glass, shall show no discoloration in the "neck" of the bottle.

(c)(C) classification. If the tomato catsup possesses a fairly good color, a score of 17 to 20 points may be given. Tomato catsup that falls into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the color is typical of tomato catsup and contains as much or more red than that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color: 53 percent of the area of Disc 1; 28 percent of the area of Disc 2; 19 percent of the area of either Disc 3 or Disc 4, or 9.5 percent of the area of Disc 3 and 9.5 percent of the area of Disc 4, whichever most nearly matches the reflectance of the tomato catsup.

* * * * *

4. In Section 52.2107, paragraphs (b), (c), and (d) are revised to read as follows:

§ 52.2107 Consistency.

* * * * *

(b)(A) and (B) classification. Tomato catsup that possesses a good consistency may be given a score of 22 to 25 points. "Good consistency" means tomato catsup shows not more than slight separation of free liquid when poured on a flat grading tray, is not excessively stiff, and flows not less than 3.0 centimeters nor more than 7.0 centimeters in 30 seconds at 20 degrees Celsius in the Bostwick consistometer. Within this range, the higher consistency catsup will receive the higher score points.

(c)(C) classification. Tomato catsup that possesses a fairly good consistency may be given a score of 18 to 21 points. Tomato catsup that falls into this classification shall not be graded above U.S. Grade C regardless of the total score for the product. "Fairly good consistency" means tomato catsup may show a noticeable, but not excessive, separation of free liquid when poured on a flat grading tray, is not excessively stiff, and is outside the limits of flow for "good consistency," but flows not less than 2.0 centimeters nor more than 10.0 centimeters in 30 seconds at 20 degrees Celsius in the Bostwick consistometer. Within this range, catsup approaching "good consistency" would receive the higher score points.

(d) (SStd) classification. Tomato catsup that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 17 points and shall not be graded above Substandard, regardless of the total score for the product.

* * * * *

§ 52.2112 [Removed and Reserved]

5. Section 52.2112 is removed and reserved.

Dated: January 17, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92-1793 Filed 1-24-92; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 730]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from January 24 through January 30, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 730 (7 CFR part 907) is effective for the period from January 24 through January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-1754.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in

District 1, Central California, which represented about 79 percent of the total production in 1990–91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990–91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's revised estimate of 1991–92 production is 64,600 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,895 cars during the 1990–91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee has estimated that about 68 percent of the 1991–92 crop of 64,600 cars will be utilized in fresh domestic channels (43,650 cars), with the remainder being exported fresh (14 percent), processed (16 percent), or designated for other uses (2 percent). This compares with the 1990–91 total of 16, 675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990–91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and District 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Mr. Nissen. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on January 21, 1992, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with 7 members voting in favor, 3 opposing, and 1 abstaining, that 1,700,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 1,700,000 cartons compares to the 1,500,000 cartons specified in the Committee's shipping schedule. Of the 1,700,000 cartons, 83.6 percent or 1,421,200 cartons are allotted for District 1, and 16.4 percent or 278,800 cartons are allotted for District 2. Districts 3 and 4 are not regulated since approximately 70 percent of both Districts' crop to date have been utilized, and handlers would not be able to utilize their allotments.

During the week ending on January 16, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,480,000 cartons compared with 514,000 cartons shipped during the week ending on January 17, 1991. Export shipments totaled 322,000 cartons compared with 140,000 cartons shipped during the week ending on January 17, 1991. Processing and other uses accounted for 285,000 cartons compared with 1,346,000 cartons shipped during the week ending on January 17, 1991.

Fresh domestic shipments to date this season total 12,287,000 cartons compared with 14,029,000 cartons shipped by this time last season. Export shipments total 1,948,000 cartons compared with 1,849,000 cartons shipped by this time last season. Processing and other use shipments total 2,524,000 cartons compared with 5,703,000 cartons shipped by this time last season.

For the week ending January 16, 1992, regulated shipments of navel oranges to the fresh domestic market were 1,393,000 cartons on an adjusted allotment of 1,252,000 cartons which resulted in net overshipments of 141,000 cartons. Regulated general maturity shipments for the current week (January 17 through January 23, 1992) are estimated at 1,475,000 cartons on an adjusted allotment of 1,468,000 cartons. Thus, overshipments of 7,000 cartons could be carried forward into the week ending on January 30, 1992.

The average f.o.b. shipping point price for the week ending on January 16, 1992, was $9.54 per carton based on a reported sales volume of 1,189,000 cartons. The season average f.o.b. shipping point price to date is $10.12 per carton. The average f.o.b. shipping point price for the week ending on January 17, 1991, was $13.58 per carton; the season average f.o.b. shipping point price at this time last year was $10.08.

The Department's Market News Service reported that, as of January 22, demand for first grade sizes 72–138 and choice fruit is good, with demand reported as moderate for other sizes. The market for first grade sizes 48–56 is lower, with sizes 88–113 slightly lower,

and all others reported as about steady. It was also reported that some harvesting was curtailed due to fog.

Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. Several Committee members commented that they believe demand has improved, and two reported that the market has also improved. One member commented that the sale of small sizes is good. Two Committee members favored an allotment of 2,000 cars, and one favored open movement, while the majority of Committee members favored the issuance of general maturity allotment for Districts 1 and 2.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from January 24 through January 30, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** (56 FR 49432). The Department is currently in the process of analyzing comments received in response to this proposal and, if warranted, may finalize that action this season. However, issuance of this final rule implementing volume regulation for the regulatory week ending on January 30, 1992, does not constitute a final decision on that proposal.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until January 22, 1992, and this action needs to be effective for the regulatory week which begins on January 24, 1992. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1030 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1030 Navel Orange Regulation 703.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from January 24 through January 30, 1992, is established as follows:

(a) District 1: 1,421,200 cartons;

(b) District 2: 278,800 cartons;

(c) District 3: unlimited cartons;

(d) District 4: unlimited cartons.

Dated: January 22, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–1965 Filed 1–23–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 981

[Docket No. FV–92–001FR]

Handling of Almonds Grown in California; Extension of Date for Satisfying Handler Reserve Disposition Obligations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule extends from January 20 to March 10, 1992, the date by which handlers of California almonds must satisfy their 1990–91 crop year reserve disposition obligations. This rule is being issued because of a recent court action that delayed a preliminary injunction hearing regarding the disposition of reserve almonds from January 13 to March 3, 1992.

EFFECTIVE DATE: January 20, 1992.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Marketing Specialist, MOAB, F&V, AMS, USDA, P.O. Box 96456, Room 2536–S, Washington, DC 20009–6456; telephone: (202) 205–2830.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), as amended, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 115 handlers of almonds who are subject to regulation under the almond marketing order and approximately 7,500 producers in the regulated area. Small

agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action relaxes restrictions on almond handlers and will not impose any additional burden or costs on handlers.

The salable, reserve, and export percentages for the 1990–91 almond crop were first established in a final rule published in the Federal Register on September 21, 1990 (55 FR 38793). The initial salable percentage was 65 percent, the reserve percentage was 35 percent, and the export percentage was 0 percent. The Board based its recommendations on the then current estimates of marketable supply and combined domestic and export trade demand for the 1990–91 crop year.

On December 3, 1990, the Board unanimously recommended revising the salable and reserve percentage. Subsequently, an interim final rule revising the salable percentage from 65 to 70 percent and revising the reserve percentage from 35 to 30 percent was published in the Federal Register on February 11, 1991 (56 FR 5307).

At its February 21, 1991, meeting the Board unanimously recommended to further revise the almond salable and reserve percentages for the 1990–91 crop year from 70 to 80 percent and 30 to 20 percent, respectively. A final rule was published in the Federal Register on May 31, 1991 (56 FR 24678).

The Board made its final review of the 1990–91 crop year salable and reserve percentages at its May 10, 1991, meeting. The Board unanimously recommended to increase the salable percentage from 80 percent to 93 percent and to decrease the reserve percentage from 20 percent to 7 percent. A final rule was published in the Federal Register on September 30, 1991 (56 FR 49392).

Section 981.66(e) of the order provides that all reserve almonds which remain unsold as of September 1 of the next crop year shall be disposed of by the Board as soon as practicable through the most readily available reserve outlets. The date of September 1 may be extended to a later date by the Secretary, upon recommendation of the Board or other information.

In a mail vote completed on October 19, 1990, the Board unanimously recommended to extend the reserve disposition date to December 31, 1991, for the 1990–91 crop year only. This action was an effort on the part of the Board to give handlers additional time to dispose of their reserve almonds. A final rule was published in the Federal Register on March 14, 1991 (56 FR 10793).

Effective December 31, 1991, a final rule extended the disposition obligation date to January 20, 1992 (57 FR 1858, January 16, 1992) to allow all handlers to continue disposing of their reserve almonds after the December 31 deadline. This action was taken because on December 19, 1991, a temporary restraining order (TRO) was granted in U.S. District Court in Fresno, California, preventing the Board from disposing a handler's remaining 1990–91 reserve almonds after the December 31 deadline.

At that time, a hearing for a preliminary injunction on the TRO was scheduled for January 13, 1992. However, that hearing recently was delayed until March 3, 1992. Thus, the January 20, 1992, disposition obligation date must be extended to March 10, 1992, to allow all handlers to continue disposing of their reserve almonds until a decision on the preliminary injunction is reached by the court.

This action also extends from March 31 to June 30, 1992, the date by which handlers are required to submit documentation to the Board verifying their disposition of reserve almonds to eligible outlets. Pursuant to § 981.67, the Board may authorize handlers to act as its agents in disposing of reserve almonds. The agency agreement in place for the 1990–91 crop year specifies the terms and conditions that handlers are required to meet when acting as the Board's agents. The extension of the document filing date to June 30, 1992, will provide handlers adequate time to prepare and submit the required documentation on their reserve dispositions.

Based on the above, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant matter presented and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes restrictions on handlers by extending until March 10, 1992, the date for disposing reserve almonds and (2) this action should be taken as soon as possible so that handlers may plan their operations accordingly.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Paragraph (d) of section 981.467 is revised to read as follows:

§ 981.467 Disposition in reserve outlets by handlers.

* * * * *

(d) For the 1990–91 crop year only, the reserve disposition obligation date is extended until March 10, 1992, and the date for submitting documentation verifying reserve dispositions is extended to June 30, 1992.

Dated: January 17, 1992.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 92–1889 Filed 1–24–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1212

[FV–90–155]

RIN 0581–AA46

Lime Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Lime Research, Promotion, and Consumer Information Act (Act), approved November 28, 1990, as Subtitle D of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, authorizes the establishment of a national industry-funded lime research and promotion program. On January 30, 1991, the Agricultural Marketing Service (AMS) published an invitation to submit proposals for a Lime Research and Promotion Order. The AMS received an

industry proposal which was published for public comment at 56 FR 23239 in the May 21, 1991, issue of the **Federal Register**.

After evaluating written comments and other available material, the proposed Order is made final.

EFFECTIVE DATES: This final rule is effective January 27, 1992.

ADDRESSES: Jim Wendland, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2533–S, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Jim Wendland at the above address or telephone (202) 720–9916.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Invitation to submit proposals published January 30, 1991 (56 FR 3425).

Proposed Rule—Lime Research, Promotion, and Consumer Information Order published May 21, 1991 (56 FR 23239).

Regulatory Impact Analysis

This final rule was reviewed by the U.S. Department of Agriculture (USDA) in accordance with Departmental Regulation No. 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This action was also reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The most recent available census of agricultural producers indicates that there are 985 farms producing limes in the United States, an estimated 325 of whom will be subject to the Order. Of the latter number, the majority are classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). There are approximately 25 first handlers and 5 importers of limes who are subject to the provisions of this order, the majority of whom are also classified as small entities. The Order requires each lime producer and importer who produces or imports 35,000 pounds or more of fresh limes per year to pay an assessment not to exceed one cent per pound of such fresh limes. The above mentioned first handlers will be required to collect and remit the producers' assessments. Although the maximum assessment collection is expected to total about $2 million annually, the economic impact of a one cent or less assessment per pound on each non-exempt producer or importer will not be significant.

The Order also imposes reporting and recordkeeping burdens on first handlers and importers. It is estimated that this burden will average six hours per year, so its economic impact will not be significant. In addition, the research and promotion program funded by the assessments is expected to benefit lime producers, handlers, and importers by expanding and maintaining new and existing domestic and foreign markets and promoting new uses for limes. Such benefits are expected to outweigh any costs. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) the forms, reporting, and recordkeeping requirements included in this final rule were approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581–0093, except for Board member nominee information sheets that were previously assigned OMB No. 0505–0001. This final rule sets forth the provisions of an Order establishing a nationwide program for lime research and promotion funded by lime producers and importers. Information collection requirements as required by this action and necessary for the implementation of this Order include:

(1) A periodic report by each first handler and importer who handles or imports at least 35,000 pounds of fresh limes per year. The estimated number of respondents is 30, each submitting a maximum of 12 responses per year, with an estimated average reporting burden of one-half hour per handler response and .17 hour per importer response. However, these persons may alternatively prepay assessments annually, requiring only an initial report of anticipated assessments and a final annual report of actual handling;

(2) A refund application form for persons who desire a refund of their assessments. The estimated maximum number of respondents is 200, each submitting 2 responses per year, with an estimated average reporting burden of .25 hour per response;

(3) An exemption application for producers, handlers and importers of less than 35,000 pounds of limes annually to be exempt from assessments and recordkeeping requirements. The estimated maximum number of respondents for this form is 680, each submitting one response per year, with an estimated average burden of .08 hour per response;

(4) A referendum ballot to be used in 1993 and periodically thereafter to indicate whether producers and importers favor continuance of the Order. The estimated maximum number of respondents for this form is 350, each submitting one response approximately every five years or an annual average of 70, with an estimated average reporting burden of .10 hour per response;

(5) A nominee background statement form for Board member and alternate member nominees. The estimated number of respondents for this form is 44 during the first year of Order operations and approximately 16 annually thereafter. Each respondent will submit one response per year, with an estimated average reporting burden of .10 hour per response; and

(6) A requirement to maintain records sufficient to verify reports submitted under the Order. The estimated maximum number of recordkeepers necessary to comply with this requirement is 350, each of whom will have an estimated annual burden of .12 hour.

Background

The Lime Research, Promotion, and Consumer Information Act of 1990 (Subtitle D of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990; Pub. L. 101–624) approved November 28, 1990, hereinafter referred to as the Act, authorizes the Secretary of Agriculture (Secretary) to establish a national lime research and promotion program. The program will be funded by an assessment on producers and importers not to exceed one cent per pound of fresh limes.

The Act provides for the submission of proposals for a Lime Research and Promotion Order by industry organizations or any interested person. The Act requires that such Order provide for the establishment of a Lime Board. The Board will be composed of eleven members, including seven producers, three importers and one public member, with an alternate for each member.

The AMS issued an invitation to submit proposals for an initial Order in the January 30, 1991, issued of the **Federal Register** (56 FR 3425).

In response to the invitation to submit proposals for an Order, one proposal was received from Harold W. Furman, II, on behalf of the proponent industry group for a lime industry research and promotion program. As provided in the Act, on May 21, 1991, the AMS published the proposed Order, with modifications, for comment. The agency received two written comments concerning the proposed Lime Research, Promotion and Consumer Information Order.

One comment, filed by Mr. Furman, did not address any specific Order provisions but supported issuance of the proposed Order.

The other comment, filed by Mr. Thomas Y. Palmer, president of the California Association of Lime Growers, Fallbrook, California, objected primarily to (1) the implementation of the Order without prior hearings and a general vote of lime producers; (2) the inclusion of California in the Order; (3) the level of representation by California on the Board; (4) a portion of the Regulatory Flexibility Act statement in the proposed rule; (5) the estimate of the amount of paperwork that the proposed Order would require; (6) the absence of exporters on the Board; (7) the lack of an exemption for exported limes; (8) the lack of provisions for grades and standards; and (9) the assessment to be paid to the Lime Board, on the basis that California lime growers currently pay an assessment to the California Citrus Research Council.

The first point must be rejected as it is inconsistent with the requirements of the Act, which specifies that the Secretary shall issue an Order after notice and opportunity for public comment is given, which the Secretary has done. Also, the Act specifies that the initial referendum to determine whether issuance of the Order is favored by a majority of the eligible producers, producer-handlers and importers voting therein, shall be conducted within two years after the Secretary first issues such an Order.

Mr. Palmer contends that California should either be excluded from the Order or should have more members on the Board because it has more growers than Florida. This exclusion of California from the Order would be inconsistent with the requirements of the Act. District 2, which includes California, has less than 15 percent of U.S. fresh market lime production and thus representation by one member on the seven-member Lime Board is appropriate. Therefore, this exception is denied.

Mr. Palmer contends that under the Regulatory Flexibility Act statement, although most of the California lime producers and handlers may be considered to be comparatively small operations, many would exceed the minimum quantity of 35,000 pounds per year to be exempt under the Order and would therefore be affected by the Order provisions. Even if some of the producers and handlers are not exempt, the economic impact of such paperwork will not be significant and the benefits of the program are expected to outweigh any costs. Therefore, this exception is denied.

Mr. Palmer disagrees with the amount of paperwork estimated to be required under the Order. The proponents contend that much of the information needed under the Order is already being collected for normal business purposes. The time estimates are based on the time needed to transfer information from existing business records to the forms which will be required by the Order. Mr. Palmer's comment mentions one person's average of one bin per day or at least 200 per year, each requiring at least two pieces of paperwork. Actually no separate report would be required on each bin, rather a monthly report of the total quantity of fresh limes handled would be submitted by non-exempt first handlers or importers. Therefore, this exception is denied.

Mr. Palmer contends that exporters should not be excluded from the Board. This is inconsistent with the Act, which specifies that the only industry members on the Board shall be producers and importers who are not exempt from assessments. Therefore this exception is denied.

Mr. Palmer's complaint about the lack of an exemption for exported limes is also denied because the Act does not provide authority to exempt exported limes.

Mr. Palmer's objection to the lack of grades and standards in the proposed Order and a lack of credit for assessments currently being paid to a California research program are also denied because they are inconsistent with the Act. Section 1952(c) of the Act specifies "that nothing in this subtitle shall be construed to require quality standards for limes * * *." Similarly, on Mr. Palmer's exception regarding research, no exemption or reduction of the Order assessment is provided for in the Act simply because the limes may also have been assessed under some other program involving research.

Section Highlights

The provisions of this Order are the same as those of the proposed Order except for minor modifications for clarity and the removal of duplicative language.

Sections 1212.1–1212.20 of the Order define certain terms which are used in the Order. Sections 1212.30–1212.40 include provisions relating to the establishment, membership, nomination, appointment, term of office, procedure, reimbursement, powers and duties of the Lime Board, which is the body organized to administer the Order, subject to the oversight of the Secretary. Sections 1212.50–1212.51 concern research, promotion and consumer education. Section 1212.60 authorizes the Board to incur expenses necessary for the performance of its duties and recommend an annual budget. Section 1212.61 authorizes establishing an operating monetary reserve. Sections 1212.62–1212.68 authorize the collection of assessments, specify who pays them and how, and set forth procedures for the handling of a one-time refund of assessments. The maximum assessment rate is one cent per pound of non-exempt fresh limes produced domestically or imported into the United States. The assessment sections also outline the procedures to be followed by first handlers and importers for remitting assessments; establish a 10 percent late payment charge and also a one and one-half percent per month interest charge for late payments of assessments; and provide for refunds of assessments paid if the initial continuance referendum fails. Section 1212.69 authorizes reports of disposition of exempted limes. Sections 1212.70–1212.75 concern reporting and recordkeeping requirements for persons subject to the Order, and provide that all information obtained by the Board or the Department from records and reports required by the Order shall be kept confidential. Sections 1212.80–1212.89 are miscellaneous provisions including the right of the Secretary; personal liability of Board members and employees; influencing governmental actions; termination of the Order; separability of Order provisions; handling of intellectual property such as patents arising from funds collected by the Board; amendments to the Order; and a listing of OMB control numbers.

After consideration of all relevant material presented, it is found that the Order, and all the terms and conditions thereof, tends to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because the Lime Board, the administrative agency provided for in the Order requires a lengthy time period to be nominated, selected, and start to function. The lime industry has requested that the program become operational as soon as possible so that promotional and other activities can be in place as soon as possible. Before the program can begin, it will be necessary for the Board to recommend a budget of anticipated expenses to the Department for review, modification or approval. Also, it will be necessary for the Board

to hire a staff and establish an office to carry out the needed administrative functions. Further, interested persons were afforded a 30-day comment period, and no useful purpose would be served in delaying the effective date. Therefore, this final rule is effective on the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Limes, Marketing agreements, Reporting and recordkeeping requirements.

Chapter XI of title 7 is hereby amended by adding part 1212 to read as follows:

PART 1212—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION

Subpart A—Lime Research, Promotion, and Consumer Information Order

Definitions

Lime Board

Research, Promotion, and Consumer Information

Expenses and Assessments

Reports, Books, and Records

Miscellaneous

Authority: The Lime Research, Promotion, and Consumer Information Act of 1990; 7 U.S.C. 6201 *et seq.*

Subpart A—Lime Research, Promotion, and Consumer Information Order

Definitions

§ 1212.1 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1212.2 Act.

Act means the Lime Research, Promotion, and Consumer Information Act, Subtitle D of Title XIX, of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law No. 101–624, and any amendments thereto.

§ 1212.3 Order.

Order means this Lime Research, Promotion, and Consumer Information Order issued by the Secretary pursuant to the Act.

§ 1212.4 Board.

Board means the administrative body referred to as the Lime Board, hereinafter established pursuant to § 1212.30.

§ 1212.5 Lime.

Lime means the fruit of a *citrus aurantifolia* tree for the fresh market.

§ 1212.6 Fresh market.

Fresh market means the demand for whole limes not preserved by any recognized commercial process including canning, freezing, dehydration or fermentation, or converted into juice. It does not include the by-products of limes or products made with the by-products of limes.

§ 1212.7 Producer.

Producer means any person who produces limes in the United States for sale in commerce.

§ 1212.8 Handle.

Handle means to grade, pack, process, sell, transport, purchase, or in any other way to place or cause limes to which one has title or possession to be placed in the current of commerce. Such term shall not include the transportation or delivery of limes by the producer thereof to a handler for grading, sizing, packaging or processing.

§ 1212.9 Handler.

Handler means any person (except a common or contract carrier of limes owned by another person) who handles limes, including a producer-handler who handles limes of producer-handler's own production. For the purposes of this subpart, the term *handler* means the *first* person who performs the handling functions.

§ 1212.10 Importer.

Importer means any person who imports limes into the United States.

§ 1212.11 Producer-Handler.

Producer-Handler means any person who is both a producer and handler of limes.

§ 1212.12 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

§ 1212.13 Promotion.

Promotion means any action taken by the Board, pursuant to the Act, to present a favorable image for limes to the public with the express intent of improving the competitive position of limes in the marketplace and stimulating sales of limes, and shall include, but not be limited to, paid advertising.

§ 1212.14 Research.

Research means any type of systematic study or investigation, and/or the evaluation of any study or investigation relating to the use and nutritional value of limes, and designed to advance the image, desirability,

marketability, production, or quality of limes.

§ 1212.15 Marketing.

Marketing means the sale or other disposition of limes in commerce.

§ 1212.16 Consumer information.

Consumer information means any action taken to provide information to, and broaden the understanding of, the general public on the usage, nutritional attributes, and care of limes.

§ 1212.17 State and United States.

State and *United States* means any or all of the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1212.18 District.

District means the applicable one of the following described subdivisions of the production area, or other subdivisions as may be prescribed pursuant to § 1212.40(o):

(a) *District 1* shall include the States east of the Mississippi River, including Puerto Rico and the District of Columbia.

(b) *District 2* shall include the States west of the Mississippi River.

§ 1212.19 Fiscal period and marketing year.

Fiscal period and *marketing year* mean the 12-month period from April 1 to the following March 31 or such other period which may be recommended by the Board and approved by the Secretary.

§ 1212.20 Programs and projects.

Programs and *projects* mean those research, development, advertising, or promotion programs or projects developed by the Board pursuant to § 1212.51.

Lime Board

§ 1212.30 Establishment and membership.

(a) There is hereby established a Lime Board, hereinafter called the *Board*. The Board shall be composed of 11 members to administer the terms and provisions of this part. Seven of the members shall be producers not exempt from paying assessments under the Act, three of the members shall be importers not exempt from paying assessments under the Act, and one shall be a public member. Each member shall have an alternate who shall have the same qualifications as the member for whom such person is an alternate.

(b) Membership on the Board shall be determined according to production and import volumes as set forth in the USDA Crop Production Annual Summary Reports and data on imports as reported by the Bureau of the Census. Therefore, initially six of the seven producer members shall be producers of limes in District 1, and one producer member shall be a producer of limes in District 2. One of the three importer members shall be an importer of limes in District 1, and two importer members shall be importers of limes in District 2. The public member shall be selected at large.

(c) After two years, the Board shall review the districts to determine whether realignment of the districts or reapportionment of members among the districts is necessary and at least every five years thereafter the board shall make such a review. In making such review, it shall give consideration to:

(1) For the most recent three years, USDA production and import reports or Board assessment reports if USDA production reports are unavailable;

(2) Shifts and trends in quantities of limes produced and imported; and

(3) Other relevant factors.

As a result of this review, the Board may recommend realigning the districts or reapportioning membership among districts subject to the approval of the Secretary. Any such realignment or reapportionment shall be recommended by the Board to the Secretary at least six months prior to the date of the call for nominations and shall become effective at least 30 days prior to such date.

§ 1212.31 Nomination.

The Secretary shall appoint the members of the Board from nominations to be made in the following manner:

(a) Except for the member and alternate member who represent the general public, nominations of members to the Board shall be submitted to the Secretary for selection as soon as practicable after the effective date of this subpart. In subsequent years, nominations of members to the Board shall be submitted to the Secretary by the Board by August 1. Nominations may be made by means of group meetings of producers and importers: *Provided*, That nominations of producers and importers may be conducted by mail ballot.

(b) There shall be two individuals nominated for each vacant position who shall meet the qualifications as set forth in § 1212.30.

(c) In the event nominations for members and alternate members of the Board are not filed pursuant to, and within the time specified in, this section, the Secretary may select such members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § 1212.30.

(d) Any producer or importer who desires to be represented at a particular nomination meeting may authorize an agent and participate through such agent in the nomination and election of nominees for producer or importer members and alternate members to fill positions on the Board as provided in § 1212.30(a), shall submit to the Board, prior to such meeting but not later than seven days preceding the meeting, a written statement containing the following:

(1) Name of producer or importer;

(2) Mailing address;

(3) Place or location of business;

(4) Volume of business (how many pounds of limes produced or imported); and

(5) Authorization, including the name and address, of the person who is to represent said producer or importer at the nomination meeting.

(e) Producers or importers who have not filed a statement as prescribed in paragraph (d) of this section must be present at the nomination meeting and cast their own votes for them to be counted in connection with the nomination and election of nominees.

(f) Notwithstanding that a producer or importer has authorized an agent to cast his or her vote as specified in paragraph (d) of this section, such producer or importer may appear at the nomination meeting and cast his or her vote in person to the exclusion of such agent.

(g) Only producers may participate in the nomination and election of nominees for producer members and their alternates. Each producer shall be entitled to cast only one vote for each producer nominee. No producer shall participate in the election of nominees in more than one district in any one fiscal period.

(h) Only importers may participate in the nomination and election of nominees for importer members and their alternates. Each importer shall be entitled to cast only one vote for each importer nominee. No importer shall participate in the election of nominees in more than one district in any one fiscal period. If a person both produces and imports limes, such person shall elect the one group—either producer or importer—that individual will participate in for nominating purposes.

(i) A chairperson of each nomination meeting shall be elected by a majority vote of the eligible voters in attendance.

(j) A typed copy of the minutes of each nomination meeting shall be provided by the Board to the Secretary in a manner that will ensure receipt within 14 calendar days of such meeting's completion.

(k) In the event of a mail ballot, all qualified persons interested in serving on the Board or who are interested in nominating another person to serve on the Board shall submit to the Board in writing such information as name, mailing address, number of pounds produced, marketed, handled, or imported, or other information as may be required, in order to place that person on the ballot: *Provided*, That in the case of nominating the initial Board, the Secretary shall mail out the ballots and cause press releases concerning the distribution of ballots and pertinent information on balloting to be distributed to the media in the lime producing and importing areas. These nominations shall be sent directly to the Secretary.

Subsequently, nominations for Board positions must be received by the Board at least three months before the ballot is issued. The Board shall mail ballots to all producers and importers of record. Distribution of ballots shall be announced by press releases furnishing pertinent information on balloting, issued by the Board through the media, including newspapers and other publications having general circulation in the lime producing and importing areas.

§ 1212.32 Appointment of producer and importer members.

From the nominations made pursuant to § 1212.31, or from other qualified persons, the Secretary shall appoint the seven producer members of the Board, the three importer members of the Board, and an alternate for each such member.

§ 1212.33 Public member nominations and selection.

The public member shall be nominated by the producer members and importer members of the Board and appointed by the Secretary. In the event the Board fails to nominate a public representative, the Secretary may appoint such a member. The public member shall have no direct financial interest in the commercial production or marketing of limes except as a consumer and shall not be a director, stockholder, officer or employee of any firm so engaged. The Board shall nominate two individuals for the public member position. Voting for public member nominees shall require a quorum of the Board and shall be on the basis of one vote per Board member. Election of nominees shall be on the basis of a simple majority of those present and voting.

§ 1212.34 Term of office.

(a) The members of the Board and their respective alternates shall serve concurrent terms of office and for terms of three years, except the members and their respective alternate members of the initial Board shall be designated for, and shall serve terms as follows: Two producer members from District 1 and one importer member from District 2 shall be appointed for a term of one year; two producer members from District 1, one importer member from District 1, and the public member shall be appointed for a term of two years; and two producer members from District 1, one producer member from District 2, and an importer member from District 2 shall be appointed for a term of three years.

(b) The term of office for the initial Board shall begin immediately following appointment by the Secretary. Time in the interim period, from appointment until the term begins pursuant to this section, shall not count toward the initial "term of office." In subsequent years, the term of office shall begin on January 1 or such other period which may be approved by the Secretary.

(c) Board members and alternates shall serve during the term of office for which they are selected and have qualified, and until their successors are selected and have qualified.

(d) No member shall serve more than two successive terms: *Provided*, That those members serving initial terms of one year may serve two additional consecutive three-year terms.

§ 1212.35 Acceptance.

Each person nominated to serve on the Board shall, prior to selection as a member or alternate member of the Board, qualify by filing with the Secretary a written acceptance indicating that person's willingness to serve.

§ 1212.36 Vacancies.

(a) In the event any member or alternate member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that the member be removed from office. If the Secretary finds that the recommendation of the Board shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

(c) To fill any vacancy caused by the failure of producers and importers to nominate individuals for appointment, or if any person selected as a member of the Board fails to qualify, or in the event of the death, removal, resignation, or disqualification of any member, a successor shall be nominated and selected in the manner specified in § 1212.31 except that said nomination and replacement shall not be required if the unexpired term of office is less than six months. In the event of failure by the Board to provide nominees for such vacancies, the Secretary may appoint other eligible persons.

(d) Should any member position become vacant, the alternate of that member shall automatically assume the position of said member until a successor for such member is selected and has qualified.

§ 1212.37 Procedure.

(a) Six members, including alternates acting in place of members of the Board, shall constitute a quorum: *Provided*, That such alternates shall serve only whenever the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may act upon the concurring votes of a majority of its members by mail, telephone, or by other means of communication: *Provided*, That each proposition is explained accurately, fully, and substantially identically to each member. All telephone votes shall be promptly confirmed in writing and recorded in the Board minutes.

(c) The organization of the Board and the procedures for conducting meetings of the Board shall be in accordance with the By-Laws, when established by the Board.

§ 1212.38 Compensation and reimbursement.

Board members shall serve without compensation but shall be reimbursed for travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code, which are incurred by them

in the performance of their duties as Board members.

§ 1212.39 Powers.

The Board shall have the following powers subject to § 1212.83:

(a) To administer the provisions of this Order in accordance with its terms and conditions;

(b) To recommend to the Secretary rules and regulations to effectuate the terms and conditions of this Order;

(c) To require its employees to receive, investigate, and report to the Secretary complaints of violations of this Order;

(d) To recommend to the Secretary amendments to this Order; and

(e) To invest, pending disbursement under a program, plan, or project, funds collected only in: obligations of the United States or any agency thereof; any interest-bearing account or certificate of deposit of any bank that is a member of the Federal Reserve System; or obligations fully guaranteed as to principal and interest by the United States.

(1) All obligations must be fully guaranteed by the United States and must be less than one year.

(2) All interest-bearing accounts or Certificates of Deposit (CD) must be risk-free and short-term. *Risk-free* requires all accounts and CD's to be fully insured or collateralized with Federal Government securities. *Short-term* requires that all accounts and CD's be less than one year.

(3) In the absence of collateral, accounts and CDs shall be established at financial institutions insured by the Federal Deposit Insurance Corporation, and each account, in the aggregate, must be less than $100,000.

(4) Accounts and CD's exceeding the $100,000 insurance coverage level must be fully collateralized by the financial institution. Collateral must be pledged before funds are sent to the institution. Only those securities specified in Treasury Department Circular No. 176 are acceptable as collateral. Collateral must be pledged at face value. Collateral must be segregated in the Board's name to assure that collateral is not double pledged. Collateral may be held at the local Federal Reserve Bank or at another depository.

§ 1212.40 Duties.

The Board shall, among other things, have the following duties:

(a) To meet, organize, and select from among its members a president and such other officers as may be necessary; to select committees and subcommittees of board members; to adopt such rules for the conduct of its business as it may deem advisable; and to establish working committees of persons other than Board members;

(b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handing of Board funds through fidelity bonds;

(c) To prepare and submit for the Secretary's approval, prior to the beginning of each fiscal period, a recommended rate of assessment and a fiscal period budget of the anticipated expenses in the administration of this Order, including the probable costs of all programs and projects;

(d) To develop programs and projects, which must be approved by the Secretary before becoming effective, and enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of programs or projects of research, development, advertising or promotion, and the payment of the costs thereof with funds collected pursuant to this Order;

(e) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the Board. Minutes of each Board meeting shall be promptly reported to the Secretary;

(f) To prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the Board;

(g) To cause the books of the Board to be audited by an independent certified public accountant at least once each fiscal period, and at such other time as the Board may deem necessary or as the Secretary may request. The report of each such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the Board for inspection by producers and importers;

(h) To investigate violations of the Order and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of the Order;

(i) To periodically prepare, make public and make available to producers and importers reports of its activities;

(j) To provide the Secretary with the same notification, written or oral, as provided to Board members concerning all conference calls and meetings, including executive, advisory, subcommittee, and other meetings related to Board matters, and grant access to all such calls and meetings;

(k) To act as intermediary between the Secretary and any producer or importer;

(l) To furnish the Secretary such information as the Secretary may request;

(m) To notify lime producers, producer-handlers, and importers of all Board meetings through press releases or other means;

(n) To appoint and convene, from time to time, working committees drawn from producers, handlers, producer-handlers, importers, exporters and the public to assist in the development of research and promotion programs for limes;

(o) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the Board: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in lime production and/or importation within the districts and the production area;

(p) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to effectuate the declared purpose of the Act;

(q) To prepare and make public, monthly, a report of its activities conducted, and an accounting for funds received and expended. Financial statements for each month shall be submitted to the Secretary and shall include at least (1) a balance sheet and (2) an expense budget showing expenditures during the accounting period, year to date expenditures, and an unexpended budget. Upon request, a summary of checks issued by the Board is to be made available. Such financial statements should be submitted within 30 days after the end of each month. An annual report should be submitted within 90 days after the end of the fiscal year.

(r) To follow the Department's equal opportunity and civil rights policies.

Research, Promotion, and Consumer Education

§ 1212.50 Policy and objective.

It shall be the policy of the Board to carry out an effective and coordinated program of research, development, advertising, and promotion in order to:

(a) Strengthen the competitive position of limes in the marketplace;

(b) Maintain and expand existing domestic and foreign markets;

(c) Develop new or improved markets;

(d) Educate the general public; and

(e) Insure equitable treatment of domestically produced and imported limes.

It shall be the objective of the Board to carry out programs and projects which will provide maximum benefit to the lime industry.

§ 1212.51 Programs and projects.

The Board shall develop and submit to the Secretary for approval any programs or projects authorized in this section. Such programs or projects shall provide for:

(a) The establishment, issuance, effectuation and administration of appropriate programs or projects for consumer education, advertising and other sales promotion of limes designed to strengthen the position of limes in the marketplace and to maintain, develop, and expand markets for limes;

(b) The establishment and carrying out of research and development projects and studies to the end that the acquisition of knowledge pertaining to limes or their consumption and use may be encouraged or expanded, or to the end that marketing or other utilization of limes may be encouraged, expanded, improved, or made more efficient: *Provided,* That quality control, grade standards, supply management programs or other programs that would limit the right of the individual lime producer to produce limes shall not be conducted under, or as a part of, this Order;

(c) The development and expansion of lime sales in foreign markets:

(d) A prohibition on advertising or other promotion programs that make any reference to private brand names or use false or unwarranted claims on behalf of limes or false or unwarranted statements with respect to the attributes or use of any competing product;

(e) Periodic evaluation by the Board of each program or project authorized under this Order to insure that each program or project contributes to an effective and coordinated program of research and promotion and submission of such evaluation to the Secretary. If the Board or the Secretary finds that a program or project does not further the purposes of the Act, then the Board or the Secretary shall terminate such program or project; and

(f) The Board may, with the approval of the Secretary, enter into contracts or make agreements for the development and carrying out of research and promotion and pay for the costs of such contracts or agreements with funds collected pursuant to § 1212.64. Contractors and subcontractors who receive funds allocated by the Board shall be subject to the provisions of this part. All records of such contractors and subcontractors applicable to contracts entered into by the Board are subject to audit by the Secretary.

Expenses and Assessments

§ 1212.60 Budget and expenses.

(a) Prior to the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of this Order. Each budget shall include a plan which shall include the probable costs of research, development, advertising, consumer information, and promotion of limes. The Board shall also recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in § 1212.61. The budget shall take effect on approval by the Secretary.

(b) Each budget shall include (1) a statement of objectives and strategy for each program, plan, and project, including reasons for significant changes from the preceding budget period, (2) a summary of anticipated revenue, with comparative data for at least one preceding year, (3) a summary of proposed expenditures by each program, plan, and project, with comparative data for at least one preceding year, and (4) staff and administrative expense breakdown, with comparative data for at least one preceding year. Comparative data reporting will not apply to the initial budget.

(c) The Board is authorized to incur such expenses for research, development, advertising, or promotion of limes, such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, and any referendum and administrative costs incurred by the Department of Agriculture. The funds to cover such expenses shall be paid from assessments collected pursuant to § 1212.64 and from other funds available to the Board under this Order.

(d) The Board is hereby authorized to borrow money for the payment of administrative expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

(e) The Board shall reimburse the Department of Agriculture for referenda and administrative costs incurred by the Department with respect to the Order: *Provided,* That in the case of referenda, expenses shall not include the salaries of Government employees. The Board shall pay those costs incurred by the Department for the conduct of Departmental duties under the Order as determined periodically by the Secretary. The Department will bill the Board quarterly and payment shall be due promptly after the billing of such costs. Funds to cover such expenses shall be paid from assessments collected pursuant to § 1212.64 and from other funds available to the Board under this Order.

(f) The Board may accept voluntary contributions from any person not subject to assessments under this Order. Furthermore, such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use. Such contributions shall be subject to the same fiscal, budget and audit controls as other funds of the Board.

(g) Any amendment to an approved budget shall be subject to approval by the Secretary, including shifting of funds from one program, plan, or project to another, except such shifts that are consistent with governing By-laws need not have prior approval by the Secretary.

§ 1212.61 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided,* That the funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used to defray any expenses authorized under this subpart.

§ 1212.62 Determination of handler.

Unless otherwise provided in this section, the assessments on domestic fresh market limes shall be paid by first handlers. The first handler is the person who initially performs a handling function as heretofore defined. Such person may be a fresh shipper, processor, or other person who first places the limes in the current of commerce.

(a) The following examples are provided to aid in the identification of first handlers:

(1) A producer grades, packs, and sells limes of that producer's own production to a handler. In this instance, it is the handler, not the producer, who places the limes in the current of commerce. The handler is responsible for payment of the assessments.

(2) A producer packs and sells limes of that producer's own production from the orchard, or storage, to a trucker, retail or wholesale outlet, or other buyer who is not a handler of limes. The producer places the limes in the current of commerce and is the first handler.

(3) A producer delivers orchard-run limes of that producer's own production to a handler for preparation for market and entry into the current of commerce. The handler, in this instance, is the first handler, regardless of whether the handler subsequently handles such limes for the account of the handler or for the account of the producer.

(4) A producer delivers orchard-run limes of that producer's own production to a handler for preparation for market and return to the producer for sale. The producer in this instance, is the first handler, except when the producer subsequently sells such limes directly to a handler.

(5) A producer delivers orchard-run limes of that producer's own production to a handler who takes title to limes. The handler who purchases such limes from the producer is the first handler.

(6) A producer supplies limes to a cooperative marketing association which sells or markets the limes and makes an accounting to the producer, or pays the proceeds of the sales to the producer. In this instance, the cooperative marketing association becomes the first handler upon physical delivery of the limes to such cooperative.

(7) A handler purchases limes from a producer's orchard for the purpose of preparing such limes for market or for transporting such limes to storage for subsequent handling. The handler who purchases such limes from the producer is the first handler.

(8) A broker receives limes from a producer and sells such limes in the broker's company name. In this instance, the broker is the first handler, regardless of whether the broker took title to such limes.

(9) A broker, without taking title or possession of limes, sells such limes in the name of the producer. In this instance, the producer is the first handler.

(10) A processor purchases limes from the producer thereof, but sells them in the fresh market. In this instance, the processor is the first handler even though the producer may have graded, packed or otherwise handled such limes.

(b) In the event of a handler's death, bankruptcy, receivership, or incapacity to act, the representative of the handler or the handler's estate shall be considered the first handler of the limes for the purpose of this subpart.

(c) In no event shall a handler who first handles fresh limes going to the processed market be considered a first handler.

§ 1212.63 Importer.

Each shipment of limes imported into the United States for the fresh market is subject to assessment under this Order. Such assessment shall be paid by the importer of such limes at the time of entry into the United States. Any person who imports limes into the United States as principal, agent, broker, or consignee for limes produced outside the United States and imported into the United States shall be the importer.

§ 1212.64 Assessments.

(a) Each first handler and importer shall pay to the Board, upon demand, such assessments on fresh market limes as may be approved by the Secretary pursuant to § 1212.60. Such assessments shall be the amount established by the Secretary pursuant to paragraph (c) of this section.

(b) Except as provided in § 1212.68 and in paragraphs (d) and (e) of this section, the first handler shall be responsible for the collection of such assessment from the producer and payment thereof to the Board. The first handler shall maintain separate records for each producer's limes handled, including those limes produced by such handler.

(c) The assessment on fresh market limes shall be levied at a rate recommended by the Board and fixed by the Secretary: *Provided,* That the assessment shall not exceed $0.01 per pound of limes.

(d) The importer of imported limes for the fresh market shall pay the assessment to the Board at the time of entry of such limes into the United States.

(e) Producer-handlers shall pay to the Board the assessment on the limes for which they act as first handler.

(f) Assessments shall be paid to the Board as provided in § 1212.65(c).

(g) The Board is authorized to accept advance payments of assessments by handlers, importers, or producer-handlers that shall not be credited toward any amount for which the handlers, importers or producer-handlers may become liable. The Board shall not be obligated to pay interest on such advance payments.

(h) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary. Any reimbursement by the Board for such services shall be based on reasonable charges for services rendered.

(i) The U.S. Customs Service (USCS) will collect assessments on all limes at the time of entry and forward such assessments as per an agreement between the USCS and the USDA. Any importer or agent who is exempt from payment of assessments pursuant to § 1212.68 (a) and (b) of the Order may apply to the Board for reimbursement of such assessments paid.

§ 1212.65 Payment of assessments.

(a) *Time of payment.* The assessment shall become due at the time the first handler handles the limes for non-exempt purposes.

(b) *Responsibility for payment.* (1) First handlers and importers are responsible for the prompt payment of assessments. A handler may collect a producer's assessment from the producer, or deduct such producer's assessment from the proceeds paid to the producer or whose limes the producer assessment is made. Any such collection or deduction of producer assessments shall be made not later than the time when the first handler handles the limes.

(2) Importers shall be responsible for prompt payment of any assessment amount not collected by the U.S. Customs Service at the time of entry or withdrawal for consumption into the United States.

(c) *Payment direct to the Board.* (1) Except as provided in paragraph (e) of this section, each handler shall remit the required assessments, pursuant to § 1212.64 of this part, directly to the Board not later than 20 days after the end of the month such assessments are due. Remittance shall be by check, draft, or money order payable to the Lime Board, and shall be accompanied by a report, preferably on Board forms, pursuant to § 1212.70. To avoid late payment charges, the assessments must be mailed to the Board and postmarked within 20 days after the end of the month such assessments are due.

(2) Each handler shall file with the Board a report pursuant to § 1212.70 for each month that assessable limes were handled. All handler reports shall contain at least the following information:

(i) The handler's name, address, and telephone number;

(ii) The date of the report (which is also the date of payment to the Board);

(iii) The period covered by the report;

(iv) The total quantity of limes handled during the reporting period;

(v) The date of the last report remitting assessments to the Board; and

(vi) A listing of all persons for whom the handler handled limes, their addresses, pounds handled, and total assessments remitted for each producer. In lieu of such a list, the handler may substitute copies of settlement sheets given to each person or computer

generated reports, provided such settlement sheets or computer reports contain all the information listed above.

(vii) The name, address, and pounds handled for each person claiming exemption from assessment.

(viii) If the handler handles limes for persons engaged in the production of less than 35,000 pounds of limes, the report shall indicate the name and address of each such person and the quantity of limes handled for each such person.

(3) Each importer shall file with the Board a monthly report containing at least the following information:

(i) The importer's name, address, and telephone number or facsimile machine number.

(ii) The quantity of limes entered or withdrawn for consumption into the United States.

(iii) The amount of assessments paid on limes entered or withdrawn for consumption into the United States to the U.S. Customs Service at the time of entry or withdrawal for consumption.

(iv) The amount of any limes on which the assessment was not paid to the U.S. Customs Service at the time of entry or withdrawal for consumption into the United States.

(4) The words "final report" shall be shown on the last report at the end of each fiscal period.

(5) *Prepayment of assessments.* (i) In lieu of the monthly assessment and reporting requirements of paragraph (b) of this section, the Board may permit producer-handlers and handlers to make advance payments of their estimated assessments for the season to the Board prior to the actual determination of assessable limes. Producer-handlers or handlers shall provide an initial report estimating assessable limes. If any such estimate appears unreasonably low, the Board may request additional information to justify such estimate. If, after reviewing any additional information, the Board concludes that such estimate is not reasonable, it shall notify the producer-handler or handler that such individual may not prepay such assessments. The Board shall not be obligated to pay interest on any advance payment.

(ii) Producer-handlers or handlers using such procedures shall provide a final annual report of actual handling and remit any unpaid assessments not later than 20 days after the end of the last month of the such handler's fiscal period.

(iii) Producer-handlers or handlers using such procedures shall, after filing a final annual report, receive a reimbursement of any overpayment of assessment.

(iv) Producer-handlers or handlers using such procedures shall, at the request of the Board to verify a producer's refund claim under § 1212.67, provide the Board with a handling report on any and all producers for whom the handler has provided handling services but has not yet filed a handling report with the Board.

(v) Specific requirements, instructions, and forms for making such advance payments shall be provided by the Board on request.

(d) *Late payment charges and interest.* (1) A late payment charge shall be imposed on any importer who fails to make timely remittance of assessments due or any handler who fails to make timely remittance to the Board of the total producer and producer-handler assessments for which any such handler is liable. Such late payment charge shall be imposed on any assessments not received before the thirtieth day after the end of the month such assessments are due. This one-time late payment charge shall be 10 percent of the assessments due before interest charges have accrued. The late payment charge will not be applied to any late payments postmarked within 20 days after the end of the month such assessments are due.

(2) In addition to the late payment charge, one and one-half percent per month interest on the outstanding balance, including the late payment charge and any accrued interest, will be added to any accounts delinquent beyond 30 days after the twentieth day after the end of the month such assessments are due. Such interest will continue monthly until the outstanding balance is paid to the Board.

(e) *Payment through cooperative agency.* The Board may enter into agreements, subject to approval of the Secretary, authorizing other organizations to collect assessments in its behalf. In any State or area in which the Board has entered into such an agreement, the designated handler shall pay the assessment to such agency in the time and manner, and with such identifying information as specified in such agreement. Such an agreement shall not provide any cooperating agency with authority to collect confidential information from handlers, importers, or producers. To qualify, the cooperating agency must on its own accord have access to all information required by the Board for collection purposes. If the Board requires further evidences of payment than provided by the cooperating agency, it may acquire such evidence from individual handlers. All such agreements are subject to the requirements of the Act, the Order, all applicable rules and regulation under the Act and the Order, and the approval of the Secretary.

§ 1212.66 Failure to report and remit.

Any producer-handler, handler, or importer who fails to submit reports and remittances according to the provisions of § 1212.65 shall be subject to appropriate action by the Board which may include one or more of the following actions:

(a) Audit of the producer-handler's, handler's, or importer's books and records to determine the amount owed the Board.

(b) Establishment of an escrow account for the deposit of assessments collected. The frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Board with the approval of the Secretary.

(c) Referral to the Secretary for appropriate enforcement action, which includes assessing a civil penalty for each violation as specified in section 1958(c)(1) of the Act.

§ 1212.67 Refunds.

(a) Subject to the provisions of this section any producer, producer-handler, or importer shall have the right to personally demand and receive from the Board a refund of assessments paid by or on behalf of such producer, producer-handler, or importer for any calendar month during the period beginning on the effective date of this Order and ending on the effective date of the referendum mandated by section 1960(a) of the Act; *Provided*, That:

(1) Such producer, producer-handler, or importer makes application and provides proof of payment as required in paragraphs (b) (1), (2), and (3) of this section;

(2) This order is not approved pursuant to the referendum conducted under section 1960(a) of the Act.

(b) Refunds from escrow account. A portion of the assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the initial referendum provided for in this section shall be held in an escrow account established only until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent. Each lime producer, producer-handler, or importer against whose limes an assessment became payable and was paid pursuant to this subpart may obtain a refund of a pro rata share of the assessment amount if the Order is not

approved pursuant to the initial referendum, conducted to determine if an Order should be issued, by following the procedures prescribed in this section.

(1) *Application form.* A producer, producer-handler, or importer shall obtain a refund application form from the Board by written request which shall bear the producer's, producer-handler's, or importer's signature. For partnerships, corporation, associations, or other business entities, a partner or officer of the entity must sign the request and indicate such individual's title.

(2) *Submission of refund application to the Board.* Any producer, producer-handler, or importer requesting a refund shall mail an application on the prescribed form to the Board not later than 90 days after the date of publication of the results of the initial referendum. The refund application shall show the following:

(i) The producer's, producer-handler's, or importer's name and address;

(ii) The handler's or handler's name(s) and address(es);

(iii) The number of pounds of limes on which the refund is requested;

(iv) The total amount to be refunded;

(v) Proof of payment as described below; and

(vi) The producer's, producer-handler's, or importer's signature.

Where more than one producer, producer-handler, or importer shared in the assessment payment, the refund application shall show, in addition to other require information, the names, addresses and proportionate shares of such producers, producer-handlers, or importers and the signature of each. Requests may be filed for refunds of a part of the assessments paid.

(3) *Proof of payment of assessment.* Evidence of payment of assessments satisfactory to the Board, such as the receipt or a copy of the receipt given to the producer by the handler, or a copy of the handler's report, shall accompany the producer's, producer-handlers's, or importer's refund application. Evidence submitted with refund applications shall not be returned to the applicant.

(4) *Payment of refund.* (i) If the Order is disapproved in the initial referendum, the Board shall make remittance to the applicant based on the amount in an escrow account, and, as necessary, prorated among all eligible producers, producer-handlers, or importers who demand such refund. For joint applications, the remittance shall be made payable jointly.

(ii) If the referendum required by section 1960(a) of the Act shows that a majority of those voting do not favor continuation of this Order, the Board shall pay refund requests within the time specified by the Secretary. Should the amount in the escrow account required by § 1212.60(e) be insufficient to refund the total amount of assessments demanded by eligible producers, producer-handlers, or importers, the Board shall prorate the amount of such refunds among all eligible producer, producer-handlers, and importers who demand such refund. The names of individuals obtaining refunds shall be kept confidential and made available only to the Secretary and the Board employees essential to refund processing.

(iii) No refunds shall be paid to any producer, producer-handler, or importer making demand for such refund if this Order is approved by a majority of those voting in the referendum required by section 1960(a) of the Act, and all funds in the escrow account shall be returned to the Board for use by the Board in funding approved programs and projects.

§ 1212.68 Exemption from assessment.

(a) A producer who produces less than 35,000 pounds of limes per year, or a producer-handler who produces and handles less than 35,000 pounds of limes per year, or an importer who imports less than 35,000 pounds of limes per year shall be exempt from the assessment.

(b) To claim an exemption, a producer, producer-handler, or importer shall submit an application to the Board stating the basis on which the exemption is claimed, and certify that such person will not exceed the limitation required for exemption in such year.

(c) The Board may recommend to the Secretary that limes exported from the United States be exempted from the provisions of this Order, and procedures shall be established providing for the refund of assessments on such limes and such safeguards as may be necessary to prevent improper use of this exemption.

§ 1212.69 Reports of disposition of exempted limes.

The Board may require reports by handlers on the handling and disposition of exempted limes and/or on the handling of limes for persons engaged in producing less than 35,000 pounds of limes. Authorized employees of the Board or the Secretary may inspect such books and records as are appropriate and necessary to verify the reports on such disposition.

Reports, Books, and Records

§ 1212.70 Reports.

Each handler, producer-handler, and importer who is subject to this part shall be required to report to the authorized employees of the Board, at such times and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to, the following:

(a) For handlers and producer-handlers: Total quantity of limes acquired during the reporting period; total quantity handled during such period; amount of limes acquired from each producer, giving the name and address of each producer, including those producers who claim an exemption from assessment; copy of statements claiming exemption from those who claim such exemption; assessments collected or collectible during the reporting period; quantity of limes processed for sale from producer-handler's own production; and a record of each transaction for limes on which assessment had already been paid, including statements from sellers that assessments had been paid.

(b) For importers: Total quantity of limes imported during the reporting period and a record of each importation of limes during such period, giving the quantity, date, and port of entry.

§ 1212.71 Books and records.

Each handler, producer-handler, and importer shall maintain and during normal business hours make available for inspection by employees of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this Order and the regulations issued thereunder, including such records as are necessary to verify any required reports.

§ 1212.72 Retention period for records.

Each handler, producer-handler, and importer required to make reports pursuant to this subpart shall maintain and retain for at least two years beyond the marketing year of their applicability:

(a) One copy of each report made to the Board; and

(b) Such records as are necessary to verify such reports.

§ 1212.73 Availability of records.

Each handler, producer-handler, and importer required to make reports pursuant to this subpart shall make available for inspection by authorized employees of the Board or the Secretary during regular business hours, such records as are appropriate and

necessary to verify reports required under this subpart.

§ 1212.74 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§ 1212.70 and 1212.71 shall be kept confidential and shall not be disclosed to the public by any individual. Any disclosure of any confidential information by any employee of the Board, except as required by the law, shall be considered willful misconduct. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart: Except that nothing in this subpart shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of a number of handlers, producer-handlers, or importers subject to this Order if such statements do not identify the information furnished by any person;

(b) The publication by direction of the Secretary of the name of any person violating this Order, together with a statement of the particular provisions of this Order violated by such person.

§ 1212.75 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers, producer-handlers, or importers and all information with respect to refunds of assessments made to individual producers, handlers, and importers shall be kept confidential in the manner and to the extent provided for in § 1212.74.

Miscellaneous

§ 1212.80 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1212.81 Personal liability.

No member of employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission of omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1212.82 Influencing governmental actions.

No funds collected by the Board under this Order shall in any manner be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this subpart.

§ 1212.83 Suspension or termination.

(a) Whenever the Secretary finds that this Order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall terminate or suspend the operation of this Order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or if 10 percent or more of the lime producers, producer-handlers, and importers subject to assessment under this Order submit a petition requesting such a referendum to determine if lime producers, producer-handlers, and importers favor termination or suspension of this Order. The Secretary shall suspend or terminate this Order at the end of the marketing year whenever the Secretary determines that suspension or termination is favored by a majority of the lime producers, producer-handlers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in producing or importing limes and who produced or imported more than 50 percent of the volume of limes produced or imported by those producers, producer-handlers, and importers voting in the referendum.

§ 1212.84 Proceedings after termination.

(a) Upon the termination of this Order, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees for all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to § 1212.40;

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to person or persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to invest in such person or persons full title and right to all the funds, property, and claims vested in the Board or the trustees pursuant to this section.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) A reasonable effort shall be made by the Board or its trustees to return to producers, producer-handlers, and importers any residual funds not required to defray the necessary expenses of liquidation. If it is found impractical to return such remaining funds to producers, producer-handlers, and importers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

§ 1212.85 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this Order or any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this order or any regulation issued thereunder, or

(b) Release or extinguish any violation of this Order or any regulation issued thereunder, or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person with respect to any such violation.

§ 1212.86 Separability.

If any provision of this Order is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Order or applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1212.87 Patents, copyrights, inventions, product formulations and publications.

Any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this Order shall be the property of the United States government as represented by the Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board. Upon termination of this part,

§ 1212.84 shall apply to determine the disposition of all such property.

§ 1212.88 Amendments.

The Secretary may from time to time amend provisions of this subpart. The Board or any interested person or organization affected by the provisions of the Act may propose amendments to the Secretary.

§ 1212.89 OMB Control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, is OMB number 0581-0093, except Board member nominee information sheets are assigned OMB number 0505-0001.

Dated: January 22, 1992.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 92-1915 Filed 1-24-92; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is comprised of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) represents foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to or deletions from the previous OTC List. There are no additions to or deletions from the previous Foreign List. Both Lists were last published on October 28, 1991 (56 FR 55442) and effective on November 12, 1991.

EFFECTIVE DATE: February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to or deletions from the OTC List. This supersedes the last OTC List which was effective November 12, 1991. Additions and deletions to the OTC List were last published on October 28, 1991 (56 FR 55442). A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly publication of the OTC List.

There are no new additions, deletions or changes to the Board's Foreign List, which was last published October 28, 1991 (56 FR 55442) and effective November 12, 1991. This notice serves as republication of that List with a new effective date of February 12, 1992. The Foreign List includes those securities that meet the criteria in Regulation T and are eligible for margin treatment at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6(a) and (b), 220.17(a), (b), (c) and (d), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2(u) and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Affiliated Banc Corporation
  $.10 par common
Alliant Computer Systems
  $.01 par common
  7¼% convertible subordinated debentures
Appian Technology Inc.
  $.01 par common
Autodie Corporation
  $.05 par common
Banker's Note, Inc., The

$.01 par common
Barry's Jewelers, Inc.
No par common
Cascade International, Inc.
$.001 par common
Centuri, Inc.
$.05 par common
Chancellor Corporation
$.01 par common
Country Lake Foods, Inc.
$.01 par common
Crownamerica, Inc.
No par common
CSC Industries, Inc.
$.10 par common
Dyansen Corporation
$.01 par common
DYNCORP
Class A, 17% redeemable preferred
Erie Lackawanna Inc.
No par capital stock,
$1.00 stated value
Fairfield County Bancorp, Inc.
$.100 par common
Forest Oil Corporation
$2.125 par convertible preferred
Forum Group, Inc.
No par common
General Sciences Corporation
$.01 par common
Gold Company of America
Depositary units of limited partnership interest
GTE California Inc.
Series 1956, 4½% cumulative preferred
Highland Superstores, Inc.
$.01 par common
Home Centers, Inc.
No par common
IEH Corporation
$.50 par common
Image Bank, Inc.
$.01 par common
Information Science Incorporated
$.01 par common
Investors Financial Corporation
$1.25 par common
Jones Spacelink, Ltd.
Class A, $.01 par common
National Micronetics, Inc.
$.10 par common
Nestor, Inc.
$.01 par common
OHM Corporation
8% convertible subordinated debentures
P.A.M. Transportation Services, Inc.
$.01 par common
Pacific Agricultural Holdings, Inc.
No par common
Personal Computer Products, Inc.
$.005 par common
Pharmakinetics Laboratories, Inc.
$.001 par common
Pinnacle Bancorp, Inc.
$.01 par common
Selecterm, Inc.
$.05 par common
Tele-Communications, Inc.
Rights (expire 01-31-95)
Unitronix Corporation
No par common
Ventura Entertainment Group Ltd.
Class A, warrants
(expire 05-31-93)
WTD Industries, Inc
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Advanced Magnetics, Inc.
$.01 par common
Aegon N.V.
American registered certificates representing ordinary shares
Ashton-Tate Corporation
$.01 par common
Avantek, Inc.
No par common
Bangor Hydro-Electric Company
$5.00 par common
Bohemia Inc.
No par common
Carolina Financial Corporation
$1.00 par common
Cetus Corporation
$.01 par common
Cross & Trecker Corporation
$1.00 par common
Durham Corporation
$5.00 par common
Duty Free International, Inc.
$.01 par common
Employee Benefit Plans, Inc.
$.01 par common
Environmental Elements Corporation
$.01 par common
General Kinetics Incorporated
$.25 par common
Harold's Stores, Inc.
$.01 par common
Heist, C.H., Corporation
$.05 par common
Hickam, Dow B., Inc.
$.01 par common
International Shipholding Corp
$1.00 par common
Jiffy Lube International, Inc.
$.25 par common
Kamenstein, M., Inc.
$.01 par common
Kasler Corporation
No par common
Marine Corporation
$.7812 par common
Metcalf & Eddy Companies, Inc.
$.01 par common
Novacare
$.01 par common
Oceaneering International, Inc.
$.25 par common
Office Depot, Inc.
$.01 par common
Petroleum Equipment Tools Company
$.50 par common
Regional Federal Bancorp, Inc.
No par common
South Carolina National Corporation
$5.00 par common
Spearhead Industries, Inc.
$.05 par common
St. Paul Companies, Inc., The
No par common
Tyco Toys, Inc.
$.01 par common
Warrants (expire 06-07-93)
United Artists Entertainment
Class A, $.001 par common
Class B, $.001 par common
Valid Logic Systems, Inc.
$.001 par common
Velobind, Incorporated
$.50 par common
Washington Federal Savings Bank (Oregon)
$1.00 par common
XL/Datacomp, Inc.
$.01 par common

Additions to the List of Marginable OTC Stocks

Aames Financial Corporation
$.001 par common
Advanced Interventional Systems, Inc.
No par common
Affymax N V.
Common stock (DFL. 06)
Alliance Imaging, Inc.
$.01 par common
Allied Healthcare Products, Inc.
$.01 par common
Alpha 1 Biomedicals, Inc.
Class B, warrants (expire 06-30-95)
Alpharel, Inc.
Warrants (expire 12-12-94)
Alteon, Inc.
$.01 par common
Ambar, Inc.
$.01 par common
America Service Group Inc.
$.01 par common
American International Petroleum Corporation
$.08 par common
American Superconductor Corporation
$.01 par common
Aortech, Inc.
$.01 par common
Apple South, Inc.
$.01 par common
Aramed, Inc.
Units (expire 09-30-93)
ARI Network Services, Inc.
$.001 par common
Athena Neurosciences, Inc.
$.01 par common
Atlantic Tele-Network, Inc.
$.01 par common
Atrix Laboratories, Inc.
$.001 par common
Autocam Corporation
No par common
Bachman Information Systems, Inc.
$.01 par common
Bally Gaming International, Inc.
$.01 par common
Barefoot Inc.
$.01 par common
Barra, Inc.
No par common
Bell Bancorp, Inc.
$.01 par common
Biomagnetic Technologies, Inc.
No par common
Biomira Inc.
No par common
Broderbund Software, Inc.
$.01 par common
Cenfed Financial Corporation
$.01 par common
Century Cellular Corporation
Class A, $.01 par common
Checkers Drive-In Restaurants, Inc.

$.001 par common
Choice Drug Systems, Inc.
$.01 par common
Warrants (expire 06-30-92)
Clinical Technologies Associates, Inc.
$.01 par common
Compusa Inc.
No par common
Cryomedical Sciences, Inc.
$.001 par common
Custom Chrome, Inc.
$.001 par common
Cyberoptics Corporation
No par common
Cytel Corporation
$.01 par common
Cytrx Corporation
$.001 par common
Class B, warrants (expire 11-09-92)
Digital Biometrics, Inc.
$.01 par common
Diversicare, Inc.
$.01 par common
DNX Corporation
$.01 par common
Electric & Gas Technology, Inc.
$.01 par common
Embrex, Inc.
No par common
Warrants (expire 11-07-96)
Enzon, Inc.
Warrants (expire 11-01-94)
F & C International, Inc.
No par common
Fidelity Medical, Inc.
$.01 par common
Forest Oil Corporation
$.75 par convertible preferred
Warrants (expire 10-01-96)
Frontier Adjusters of America, Inc.
$.01 par common
Future Communications Inc.
$.001 par common
Gencare Health Systems, Inc.
$.02 par common
Genta Incorporated
$.001 par common
Goody's Family Clothing, Inc.
No par common
Grancare, Inc.
No par common
Granite Broadcasting, Inc.
$.01 par common
Hamburger Hamlet Restaurants Inc.
$.01 par common
Hechinger Company
Convertible subordinated debentures due 2012
Hoenig Group, Inc.
$.01 par common
Class A, warrants (expire 10-29-93)
Imclone Systems Incorporated
$.001 par common
IMRS Inc.
$.01 par common
In Home Health, Inc.
$.01 par common
Indiana United Bancorp
No par common
Information America, Inc.
$.01 par common
Inforum, Inc.
$.01 par common
Insurance Auto Auctions, Inc.
$.001 par common
Interactive Network, Inc.
No par common
Interferon Sciences, Inc.
$.01 par common
International Airline Support Group, Inc.
$.001 par common
International Cablecasting Technologies Inc.
$.01 par common
IPSCO Inc.
No par common
Jimbo's Jumbos, Incorporated
$.001 par common
Lannet Data Communications Ltd.
Ordinary shares (NIS .1 par value)
Liberty Bancorp, Inc.
$.01 par common
Louisville Gas and Electric Company
7.45% cumulative preferred stock
Magainin Pharmaceuticals, Inc.
$.002 par common
Manhattan Life Insurance Company, The
$2.00 par common
Marquette Electronics, Inc.
Class A, $.10 par common
Matthews Studio Equipment Group
No par common
Medisys, Inc.
$.01 par common
Miami Subs Corporation
$.01 par common
Missimer & Associates, Inc.
$.01 par common
Mitek Surgical Products, Inc.
$.01 par common
MTC Electronic Technologies Co., Ltd.
No par common
Namic U.S.A. Corporation
$.01 par common
National City Bancshares, Inc.
$3.33⅓ par common
National Medical Waste, Inc.
$.01 par common
National Rehabilitation Centers, Inc.
$.01 par common
Newcor, Inc.
$1.00 par common
Noble Drilling Corporation
$1.00 par convertible exchangeable preferred
Old Dominion Freight Line, Inc.
$1.00 par common
Pacific Physician Services, Inc.
$.01 par common
Peer Review Analysis, Inc.
$.10 par common
Perfumania, Inc.
$.01 par common
Perrigo Company
No par common
Pharmaceutical Marketing Services Inc.
$.01 par common
Physician Computer Network, Inc.
$.01 par common
Price Company, The Convertible subordinated debentures due 2001
Price Reit, The
$.01 par common
Provident American Corporation
$1.00 par common
Qualcomm Incorporated
$.0001 par common
Read-Rite Corporation
$.0001 par common
Retix
$.01 par common
Rochester Medical Corporation
No par common
Ropak Laboratories
No par common
Sam & Libby, Inc.
$.001 par common
Sanfilippo, John B., & Son, Inc.
$.01 par common
SGI International
No par common
Sheffield Industries, Inc.
$.01 par common
SLM International, Inc.
$.01 par common
Softkey Software Products Inc.
No par common
Southern Electronics Corporation
$.01 par common
Sports/Leisure, Inc.
$.01 par common
Star Multi Care Services, Inc.
$.001 par common
Sterling Savings Association
$1.00 par common
Sulcus Computer Corporation
No par common
Series A, no par redeemable convertible preferred
Class B, warrants (expire 06-30-92)
Sungard Data Systems Inc.
8¼% convertible subordinated debentures
Supercuts, Inc.
$.01 par common
Synalloy Corporation
$1.00 par common
Syquest Technology, Inc.
$.001 par common
THQ, Inc.
$.001 par common
Tetra Tech, Inc.
$.01 par common
TRM Copy Centers Corporation
No par common
UF Bancorp, Inc.
$.01 par common
Ultra Pac, Inc.
$2.00 par common
United New Mexico Financial Corporation
Series A, no par preferred
United Wisconsin Services, Inc.
No par common
Vest, H.D., Inc.
$.05 par common
Class A, warrants (expire 06-15-93)
Class B, warrants (expire 11-26-94)
Viewlogic Systems, Inc.
$.01 par common
Vitesse Semiconductor Corporation
$.01 par common
Warehouse Club, Inc.
Warrants (expire 11-13-94)
World Acceptance Corporation
No par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), January 21, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-1865 Filed 1-24-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-185-AD; Amendment 39-8146; AD 92-02-10]

Airworthiness Directives; Aerospatiale Model ATR42-200, -300, and -320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-200, -300, and -320 series airplanes, which requires a one-time inspection of the hinge pins on the nose landing gear (NLG) leg and drag braces to detect cracks, and replacement of the hinge pins, if necessary. This amendment is prompted by a recent report of two cracked hinge pins on the drag brace assembly of the NLG. The actions specified by this AD are intended to prevent collapse of the NLG.

DATES: Effective March 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-1112; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42-200, -300, and -320 series airplanes, was published in the **Federal Register** on October 21, 1991 (56 FR 52485). That action proposed to require a one-time inspection of the hinge pins on the nose landing gear (NLG) leg and drag braces to detect cracks, and replacement of the hinge pins, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,200.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-10. **Aerospatiale:** Amendment 39-8146. Docket 91-NM-185-AD.

Applicability: Model ATR42-200, -300, and -320 series airplanes; Serial Numbers, 16, 17, 19, 20, 22 through 34, 36 through 39, 41 through 45, 47 through 49, 54, 59, and 107; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the nose landing gear (NLG), accomplish the following:

(a) Perform a dye penetrant inspection to detect cracks of the four hinge pins of the left-hand and right-hand NLG leg and drag braces, and accomplish emergency extension functional tests, in accordance with Aerospatiale Service Bulletin ATR42-32-0039, Revision 1, dated August 1, 1991, at the applicable time specified below:

(1) For airplane serial numbers 17, 19, 22, 23, 24, 26, 28, 30, 31, 33, 37, 39, 41, 44, 45, 47, 48, and 59: Within 30 days after the effective date of this AD, or prior to the accumulation of 250 hours time-in-service, whichever occurs first.

(2) For airplane serial numbers 16, 20, 25, 27, 29, 32, 34, 36, 38, 42, 43, 49, 54, and 107: Within 60 days after the effective date of this AD, or prior to the accumulation of 500 hours time-in-service, whichever occurs first.

(b) If a cracked hinge pin is found as a result of the inspection required by paragraph (a) of this AD, replace it with a new hinge pin or with a hinge pin that previously has been inspected and found to be free of cracks, in accordance with Aerospatiale Service Bulletin ATR42-32-0039, Revision 1, dated August 1, 1991.

(c) As of the effective date of this AD, no hinge pin shall be installed on any airplane unless that hinge pin is new or has been inspected in accordance with Aerospatiale Service Bulletin ATR42-32-0039, Revision 1, dated August 1, 1991, and found to be free of cracks.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and replacement of hinge pins required by this AD shall be done in accordance with Aerospatiale Service Bulletin ATR42-32-0039, Revision 1, dated August 1, 1991, which incorporates the following list of effective pages:

Page No.	Revision No.	Date
1, 12, and 13-14	1	August 1, 1991.
2, 3, 4, 5-6, 7, 8, 10, 11, and 15.	Blank	July 18, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington; or at the Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C.

(g) This amendment (39-8146), AD 92-02-10, becomes effective March 2, 1992.

Issued in Renton, Washington, on December 27, 1991.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1836 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-163-AD; Amendment 39-8147; AD 92-02-11]

Airworthiness Directives; Aerospatiale Model ATR42-200, -300, and -320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Model ATR42-200, -300, and -320 series airplanes, which requires repetitive inspections to detect corrosion and cracks in the main landing gear (MLG) wheel axle, and replacement of the landing gear swinging lever assembly, if necessary. This amendment is prompted by a recent report of failure of the MLG wheel axle due to stress corrosion. The actions specified by this AD are intended to prevent loss of the wheel assembly.

DATES: Effective March 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113; telephone (206) 227-1112; fax 227-1320. Mailing address: FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Aerospatiale Model ATR42-200, -300, and -320 series airplanes, was published in the **Federal Register** on October 23, 1991 (56 FR 54804). That action proposed to require repetitive inspections to detect corrosion and cracks in the main landing gear (MLG) wheel axle, and replacement of the landing gear swinging lever assembly, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter agreed with the proposed requirements of this AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 77 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,470.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-11. **Aerospatiale:** Amendment 39-8147. Docket 91-NM-163-AD.

Applicability: Model ATR42-200, -300, -320 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the wheel assembly, accomplish the following:

(a) Perform a boroscope inspection to detect corrosion of the main landing gear (MLG) wheel axles at the jacking dome hole level, in accordance with Aerospatiale Service Bulletin ATR42-32-0038, Revision 1, dated June 24, 1991, at the applicable time specified below:

Note: The Aerospatiale Service Bulletin references Messier-Bugatti Service Bulletin 631-32-071, Revision 1, dated July 5, 1991, as an additional information source.

(1) For airplanes on which an axle has accumulated 10,000 or more landings as of the effective date of this AD, within 30 days after the effective date of this AD.

(2) For airplanes on which an axle has accumulated 8,000 or more landings but less than 10,000 landings as of the effective date of this AD, within 90 days after the effective date of this AD.

(3) For airplanes on which an axle has accumulated 6,000 or more landings but less than 8,000 landings as of the effective date of this AD, within 120 days after the effective date of this AD.

(4) For airplanes on which an axle has accumulated less than 6,000 landings as of the effective date of this AD, prior to the accumulation of 6,000 landings or within 120 days after the effective date of this AD, whichever occurs later.

(b) If no corrosion is found, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 3,200 landings.

(c) If corrosion is found, prior to further flight, perform an eddy current inspection to

detect cracks in the wheel axle, in accordance with Aerospatiale Service Bulletin ATR42-32-0038, Revision 1, dated June 24, 1991.

(1) If no cracks are found, replace the swinger lever assembly prior to the accumulation of 50 additional landings, in accordance with the service bulletin.

(2) If cracks are found, prior to further flight, replace the swinger lever assembly, in accordance with the service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections and replacement required by this AD shall be done in accordance with Aerospatiale Service Bulletin ATR42-32-0038, Revision 1, dated June 24, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment (39-8147), becomes effective March 2, 1992.

Issued in Renton, Washington, on December 27, 1991.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1835 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-142-AD; Amendment 39-8148; AD 92-02-12]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires removal of the bulk cargo compartment flapper valve. This amendment is prompted by a report of a cargo compartment flapper valve that did not close during a functional check of the bulk cargo compartment fire extinguishing system. This condition, if not corrected, could result in loss of the extinguishing agent (halon) through an open flapper valve, which will decrease the fire extinguishing capability in the bulk cargo compartment.

DATES: Effective March 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Frey, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2673. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 767 series airplanes, was published in the **Federal Register** on August 14, 1991 (56 FR 40278). That action proposed to require the removal of the bulk cargo ventilation flapper valve.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter agreed with the proposal to remove the bulk cargo compartment flapper valve.

One commenter was concerned that the deletion of the flapper valve will affect cargo compartment ventilation. The FAA does not share this concern. Testing and analysis by the manufacturer showed that the flapper valve is not needed, and that leakage between liner panels and at cargo door seals is sufficient to accommodate exhaust from the bulk cargo compartment ventilation fan. Moreover, the valve has been deleted on later model airplanes.

One commenter noted that the flapper valve contains material that does not comply with the burn test requirements of FAR 121.314, Amendment 121-202. A Partial Grant of Exemption (Exemption No. 5288, Regulatory Docket No. 26400) was issued for Federal Aviation Regulation (FAR) 121.314 (Amendment 121-202) which extends the compliance time to March 20, 1993, for the required removal of Boeing Model 767 liner details. The commenter considers that the proposed AD is not necessary for assurance of the removal of the flapper valve, because the proposed AD would require removal of the flapper valve in the same time frame as FAR 121.314 (Amendment 121-202). The commenter believes that, if the proposed AD is issued, the removal of the bulk cargo flapper valve will be required by two separate mandatory regulatory actions, both of which require accomplishing the identical task in the same time period in accordance with the same service bulletin. The FAA does not agree. FAR 121.314 (Amendment 121-202) requires replacement of the ceiling and sidewall liner panel to meet new flammability safety standards for cargo compartments; it does not specifically require removal of the flapper valve. The FAA has identified an unsafe condition specifically with regard to the flapper valve, as was explained in the preamble to the notice. The FAA has determined that AD action is the appropriate vehicle for requiring the removal of the flapper valve and, thus, eliminating the unsafe condition.

One commenter, who had already deactivated the valve, requested an extension of the proposed compliance time to allow removal of the valve at a maintenance facility. The FAA does not concur that an extension of the proposed compliance time for this AD action is appropriate, since the compliance time is approximately the same as that of FAR 121.314 (Amendment 121.202).

Several commenters requested that deactivation of the bulk cargo ventilation valve be considered as an optional provision to removal of the valve. Several operators have already deactivated the valve in accordance with Boeing Alert Service Letter 767-SL-21-26, dated June 26, 1990, and claim that deactivation achieves the same prevention of loss of fire extinguishing agent as removal of the valve. The FAA has determined that it is not appropriate to allow deactivation as an option, since the valve contains materials which do not comply with FAR 121.314 (Amendment 121-202) flammability requirements.

One commenter requested deviation in the use of certain materials for sealing the cargo compartment. The FAA concurs that different materials may be

approved as alternative methods of compliance under the provisions of paragraph (b) of the AD, providing that the cargo liner materials meet the requirements of FAR 121.314 (Amendment 121-202).

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 301 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 82 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. The estimated cost of the parts required to accomplish the modification is $98 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $98,236.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-12. **Boeing:** Amendment 39-8148. Docket No. 91-NM-142-AD.

Applicability: Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767-21A0098, dated May 9, 1991, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent halon from escaping through the bulk cargo ventilation flapper valve when the fire extinguishing system is activated, accomplish the following:

(a) Within 4,000 flight hours after the effective date of this AD, remove the bulk cargo ventilation flapper valve in accordance with Boeing Alert Service Bulletin 767-21A0098, dated May 9, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The removal requirements of this AD shall be done in accordance with Boeing Alert Service Bulletin 767-21A0098, dated May 9, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39-8148), AD 92-02-12, becomes effective March 2, 1992.

Issued in Renton, Washington, on December 30, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1834 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-145-AD; Amendment 39-8154; AD 92-02-17]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires replacement of the main deck passenger door girt bar floor brackets with modified brackets. This amendment is prompted by reports of girt bar end fittings not properly or fully engaged with the floor brackets. This condition, if not corrected, could result in the escape slide detaching from the airplane during an evacuation.

DATES: Effective March 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jayson B. Claar, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2784. Mailing address: FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on August 30, 1991 (56 FR 42960). That action proposed to require the replacement of the girt bar floor brackets installed on these airplanes with modified brackets.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter expresses no objection to the proposed rule.

Another commenter requests that the modification of the fasteners, serrated plates and floor fitting, described in Boeing Alert Service Bulletin 747-25A2831, be considered as an alternative method of compliance with the proposed replacement that would be required to be accomplished in accordance with Boeing Service Bulletin 747-25-2754. The commenter believes

that the alert service bulletin encompasses the same work described by Boeing Service Bulletin 747-24-2754. The FAA does not concur. The FAA has reviewed the alert service bulletin that the commenter suggested and notes that it describes replacement of the fasteners, the serrated plates, and fitting, but not the girt bar fitting.

A third commenter suggests that the proposed rule be revised to require that modification of the floor fitting, as described in Boeing Alert Service Bulletin 747-25A2831, be done in conjunction with the proposed replacement action. The FAA does not concur. Although the alert service bulletin concerns the same general area that is the subject of this proposed rule, it contains additional procedures beyond those that were proposed in this rulemaking action. In order to add those additional procedures as requirements of this proposed rule, the FAA would be required, under the Administrative Procedure Act, to reopen the period for public comment and, thus, delay finalization of this rulemaking action. Additionally, the FAA has been advised that certain parts that are necessary to perform the modification described in the alert service bulletin will not be available until after the issuance and effective date of this rulemaking action. Although the FAA is currently considering separate, additional rulemaking to address the alert service bulletin, it does not consider any further delay of this rule to be warranted.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 675 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 125 airplanes of U.S. registry will be affected by this AD, that it will take approximately 25 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. It is estimated that the required parts will cost $1,510 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $360,625.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-17. **Boeing:** Amendment 39-8154. Docket No. 91-NM-145-AD.

Applicability: Model 747 series airplanes, listed in Boeing Service Bulletin 747-25-2754, dated March 30, 1989, certificated in any category.

Compliance: Required within the next 24 months after the effective date of this AD, unless previously accomplished.

To prevent the girt bar end fittings from disengaging the girt bar floor brackets, accomplish the following:

(a) Replace the girt bar floor brackets with modified brackets, in accordance with Boeing Service Bulletin 747-25-2754, dated March 30, 1989.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The replacement requirements of this AD shall be done in accordance with Boeing Service Bulletin 747-25-2754, dated March 30, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39-8154), AD 92-02-17, becomes effective March 2, 1992.

Issued in Renton, Washington, on January 3, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1877 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-282-AD; Amendment 39-8157; AD 92-03-03]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Boeing Model 767 series airplanes powered by Pratt and Whitney JT9D-7R4 series engines and by General Electric CF6-80A series engines. This action requires inspections, adjustments, and functional checks of the thrust reverser system. This amendment is prompted by an ongoing design review, resulting from an accident investigation from which it has been determined that, prior to the accident, the airplane apparently experienced an uncommanded in-flight deployment of a thrust reverser. Deployment of a thrust reverser during flight could result in reduced controllability of the airplane. The actions specified in this AD are intended to ensure the integrity of the fail safe features of the thrust reverser system by preventing the possible discrepancies in the thrust reverser control system that can result in the inadvertent deployment of a thrust reverser during flight.

DATES: Effective January 27, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 1992.

Comments for inclusion in the Rules Docket must be received on or before March 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-282-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lanny Pinkstaff, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2684; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: Recently, a Boeing Model 767 series airplane was involved in an accident in which a thrust reverser apparently deployed during flight. While the investigation of this accident has neither revealed the cause of that deployment nor determined that the deployment caused the accident, it has identified a number of possible discrepancies in the thrust reverser control system. Inadvertent deployment of a thrust reverser during flight could result in reduced controllability of the airplane. Boeing and the FAA have conducted a review of the thrust reverser design on airplanes powered by various engine models to determine which sequence of events could result in an uncommanded thrust reverser deployment. As a result of this review of the affected thrust reverser systems, Boeing and the FAA have identified a series of inspections, tests, and adjustments that, when performed on the thrust reverser system, will ensure that the level of safety inherent in the original type design has not deteriorated in service. The FAA has determined that the accomplishment of these inspections and tests is likely to prevent the possible discrepancies in the thrust reverser control system that can result in the inadvertent deployment of a thrust reverser during flight.

The FAA has reviewed and approved Boeing Service Bulletin 767-78-0054, dated December 13, 1991 (for airplanes powered by Pratt and Whitney JT9D-7R4 series engines), and Boeing Service Bulletin 767-78-0053, dated December 13, 1991 (for airplanes powered by General Electric CF6-80A series engines), which describe procedures for performing functional tests, inspections, and necessary adjustments of the thrust reverser control system.

Since the unsafe condition described is likely to exist or develop on other Boeing Model 767 series airplanes of the same type design, this AD is being issued to ensure the integrity of the fail safe features of the thrust reverser system by preventing the possible discrepancies in the thrust reverser control system that can result in the inadvertent deployment of a thrust reverser during flight. This AD requires repetitive inspections and tests of all Boeing Model 767 airplanes powered by Pratt and Whitney JT9D-7R4 series engines or General Electric CF6-80A series engines. The required actions are to be accomplished in accordance with the service bulletins previously described. In addition, operators are required to submit a report of their initial inspection findings to the FAA.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking to address it.

Note: This is one of a series of AD rulemaking actions related to the thrust reverser issue with regard to Boeing airplanes. Other recently issued AD's have required similar inspections and testing of thrust reverser systems on Boeing Model 757 series airplanes (reference AD 91-20-09, Amendment 39-8043, (56 FR 46725, September 16, 1991)); and on Model 767 series airplanes powered by Rolls Royce RB211-524 series engines and by General Electric CF6-80C2 series engines (reference AD 91-22-02, Amendment 39-8062, (56 FR 51638, October 15, 1991)). A review of the thrust reverser systems on transport category airplanes in general also has been initiated; additional rulemaking action may result from the findings of the review team.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-282-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-03-03. **Boeing** Amendment 39-8157. Docket 91-NM-282-AD.

Applicability: Model 767 series airplanes equipped with Pratt and Whitney JT9D-7R4 series engines, and Model 767 series airplanes equipped with General Electric CF6-80A series engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the integrity of the fail safe features of the thrust reverser system, accomplish the following:

(a) For airplanes equipped with Pratt and Whitney JT9D-7R4 series engines: Within 60 days after the effective date of this AD, and thereafter, at intervals not to exceed 3,000 flight hours, perform the tests, inspections, and adjustments described in Boeing Service Bulletin 767-78-0054, dated December 13, 1991.

(1) Following any maintenance action which could affect the thrust reverser system, repeat all tests, inspections, and adjustments on the affected engine, prior to further flight, as required by paragraph (a) of this AD, in accordance with the service bulletin.

(2) Thereafter, following any maintenance action, continue to perform the repetitive tests, inspections, and adjustments on the affected engine, as required by paragraph (a) of this AD, at intervals not to exceed 3,000 flight hours.

(b) For airplanes equipped with General Electric CF6-80A series engines: Within 60 days after the effective date of this AD, and thereafter, at intervals not to exceed 3,000 flight hours, perform the tests, inspections, and adjustments described in Boeing Service Bulletin 767-78-0053, dated December 13, 1991.

(1) Following any maintenance action which could affect the thrust reverser system, repeat all tests, inspections, and adjustments on the affected engine, prior to further flight, as required by paragraph (b) of this AD, in accordance with the service bulletin.

(2) Thereafter, following any maintenance action, continue to perform the repetitive tests, inspections, and adjustments on the affected engine, as required by paragraph (b) of this AD, at intervals not to exceed 3,000 flight hours.

(c) If any of the tests, inspections, and/or adjustments required by paragraph (a) or (b) of this AD cannot be successfully performed, or if those tests, inspections, and/or adjustments result in findings that are unacceptable in accordance with Boeing Service Bulletin 767-78-0054, dated December 13, 1991, or Boeing Service Bulletin 767-78-0053, dated December 13, 1991, as applicable, accomplish the following:

(1) Prior to further flight, deactivate the associated thrust reverser in accordance with Section 78-31-1 of Boeing Document D630T002, "Boeing 767 Dispatch Deviation Guide," Revision 9, dated May 1, 1991. No more than one reverser on any airplane may be deactivated under the provisions of this paragraph.

(2) Within 10 days after deactivation of any thrust reverser in accordance with this paragraph, the thrust reverser must be repaired in accordance with Boeing Service Bulletin 767-78-0054, dated December 13, 1991, or Boeing Service Bulletin 767-78-0053, dated December 13, 1991, as applicable; the tests and/or inspections required by paragraph (a) or (b) of this AD must be successfully accomplished; and the thrust reverser must then be reactivated.

(d) Within 75 days after the effective date of this AD, submit a report of the results of the initial tests, inspections, and adjustments required by paragraphs (a) and (b) of this AD (both positive and negative results, including component replacements, with exact tolerance variations (±) noted where applicable) to the FAA, Seattle Aircraft Certification Office, ANM-100S, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The tests, inspections, and adjustments required by this AD shall be done in accordance with Boeing Service Bulletin 767-78-0054, dated December 13, 1991, or Boeing Service Bulletin 767-78-0053, dated December 13, 1991, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

(h) This amendment (39-8157), AD 92-03-03, becomes effective January 27, 1992.

Issued in Renton, Washington, on January 7, 1992.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1878 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-242-AD; Amendment 39-8161; AD 92-03-06]

Airworthiness Directives; Canadair, Ltd., Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Canadair Model CL-600 series airplanes. This action requires inspections for potential crossed wiring in the engine fire extinguishing system and the engine fire detection and warning system, and correction of any discrepancies, if necessary. This amendment is prompted by a report indicating that any disconnection and subsequent reconnection of the wiring or warning system wiring harnesses may lead to inadvertent crossed wiring. The actions specified in this AD are intended to prevent severe damage to an airplane in the event of an engine fire.

DATES: Effective February 11, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 11, 1992.

Comments for inclusion in the Rules Docket must be received on or before March 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-242-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A,

Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond O'Neill, Aerospace Engineer, Propulsion Branch, ANE-174; FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581-1145; telephone (516) 791-7421; fax (516) 791-9024.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority of Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair, Ltd., Model CL-600-1A11, CL-600-2A12, and CL-600-2B16 series airplanes. Transport Canada Aviation advises that there has been a recent report indicating that, following airplane delivery, any disconnection and subsequent reconnection of the engine fire extinguishing wiring harnesses or the engine fire detection and warning system wiring harnesses during airplane completion or maintenance services can lead to inadvertent cross connections of these harnesses. This could result in corrective action being directed to the wrong engine after an engine fire warning indication, or no fire warning being annunciated in the event of an engine fire. This condition, if not corrected, could result in severe damage to an airplane in the event of an engine fire.

Canadair, Ltd., has issued Alert Service Bulletins A600-0581 (for Model CL-600-1A11 series airplanes) and A601-0309 (for Model CL-600-2A12 and CL-600-2B16 series airplanes), both dated September 8, 1989, which describe procedures for:

a. A one-time inspection for potential crossed wiring in the engine fire extinguishing system and the engine fire detection and warning system, and correction of any discrepancies, if necessary;

b. A one-time inspection of the electrical connectors for unlocked or inoperative pins, and replacement of discrepant electrical connectors, if necessary.

Transport Canada Aviation has classified these service bulletins as mandatory and has issued Canadian Airworthiness Directive CF-91-24, dated July 19, 1991, in order to assure the airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA totally informed of the above situation. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent severe damage to an airplane in the event of an engine fire. This AD requires a one-time inspection for potential crossed wiring in the engine fire extinguishing system and the engine fire detection and warning system, and a one-time inspection of the electrical connectors for unlocked or inoperative pins; and correction of any discrepancies, if necessary. The required actions are to be accomplished in accordance with the service bulletins previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-242-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive.

92-03-06. Canadair, Ltd.: Amendment 39-8161. Docket 91-NM-242-AD.

Applicability: Model CL-600-1A11 series airplanes, serial numbers 1004 to 1085, except serial number 1037; Model CL-600-2A12 series airplanes, serial numbers 3001 to 3068; and Model CL-600-2B16 series airplanes, serial numbers 5001 to 5049; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the possibility of cross connection of engine fire detection and extinguishing systems, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish the following:

(1) For Model CL-600-1A11 series airplanes: Perform an inspection for potential crossed wiring in the engine fire extinguishing system, and inspect the electrical connectors for unlocked or inoperative pins, in accordance with Canadair Alert Service Bulletin A600-0581, dated September 8, 1989.

(2) For Model CL-600-2A12 and CL-600-2B16 series airplanes: Perform an inspection for potential crossed wiring in both the engine fire detection and warning system and the engine fire extinguishing system, and inspect the electrical connectors for unlocked or inoperative pins, in accordance with Canadair Alert Service Bulletin A601-0309, dated September 8, 1989.

(b) If any wiring discrepancies are detected as a result of the inspections required by paragraph (a) of this AD, prior to further flight, correct the discrepancies and replace any discrepant electrical connectors found, in accordance with Canadair Alert Service Bulletin A600-0581 (for Model CL-600-1A11 series airplanes), or A601-0309 (for Model CL-600-2A12 and CL-600-2B16 series airplanes), both dated September 8, 1989, as applicable.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections required by this AD shall be done in accordance with Canadair Alert Service Bulletin A600-0581, dated September 8, 1989 (for Model CL-600-1A11 series airplanes), or A601-0309 (for Model CL-600-2A12 and CL-600-2B16 series airplanes), dated September 8, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment (39-8161), AD 92-03-06, becomes effective February 11, 1992.

Issued in Renton, Washington, on January 9, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1876 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD5-90-064d]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guard has been petitioned by the Federal Highway Administration, the Maryland and Virginia Departments of Transportation, and the District of Columbia Department of Public Works to permanently amend the regulations governing operation of the Woodrow Wilson Memorial Bridge across the Potomac River, mile 103.8, at Alexandria, Virginia. As part of the rulemaking process, the Coast Guard is considering several alternative opening schedules as well as the schedule proposed by the petitioners. This temporary rule is being issued to evaluate a slight variation of another alternative being evaluated through January 27, 1992, for its impact on both marine and highway traffic.

DATES: This temporary rule is effective from January 28, 1992, through March 27, 1992, unless sooner terminated. Comments must be received on or before March 12, 1992.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M.K. Cain, Project Attorney.

Discussion of Temporary Rule

This temporary rule is being issued to evaluate a slight variation of the alternative opening schedule being evaluated through January 27, 1992, by the Coast Guard in response to a request from the Federal Highway Administration, the Virginia and Maryland Departments of Transportation, and the District of Columbia Department of Public Works, to permanently change the regulations for the Woodrow Wilson Memorial Bridge by further restricting the hours during which the bridge may open for vessel traffic. This variation merely moves the noon opening for recreational vessels to 11 a.m. This change is being considered because vehicle traffic counts across the bridge are somewhat lower at 11 a.m. than at noon, and an opening at 11 a.m. still provides reasonable midday access to the river by recreational boaters. Otherwise, this rule is identical to the temporary rule that is in effect through January 27, 1992. The Coast Guard feels that because the temporary rule that is in effect through January 27, 1992, came during the winter holiday season, abnormalities in both vehicular and vessel traffic may have occurred. Also, because of this unusually busy time of year, people may not have taken the time to review and comment on the temporary rule. For these reasons, the Coast Guard will now evaluate this similar rule for a 60-day period during conditions which should be more "normal", and interested persons will have more time to evaluate its provisions and make comment.

This temporary rule is for evaluation purposes only and will be effective for a 60-day period beginning on January 28, 1992. The impact of this proposal on

highway and marine traffic during this period will be evaluated to determine if it will result in substantial improvements in vehicular traffic flow without unreasonably restricting marine traffic. Data will be collected during the period to document the time and duration of draw openings and length of any resulting vehicle backups. If this rule results in an unforeseen disruption of traffic, it may be withdrawn sooner than 60 days.

The Woodrow Wilson Bridge operated under temporary rules from August 2, 1990, through May 31, 1991, to facilitate repairs to the bridge. Repairs were completed by May 31, 1991. Normally, operation of the bridge would revert to the permanent rule in 33 CFR 117.255. However, it is apparent that this will not provide a satisfactory balance between the needs of today's vehicular traffic and the needs of vessels. Therefore, the Coast Guard issued a temporary deviation from the permanent rules under the provisions of 33 CFR 117.43. That temporary rule with request for comments was issued to evaluate one of the alternative opening schedules being considered for a permanent change in the regulations. The rule was published in the **Federal Register** (56 FR 25369) on June 4, 1991. It was effective from June 1, 1991, through July 30, 1991. Comments were accepted through July 15, 1991. On July 9, 1991, the Coast Guard issued a second temporary rule with request for comments under the provisions of 33 CFR 117.43 to evaluate another of the alternative opening schedules being considered for a permanent change in regulations. That rule was published in the **Federal Register** (56 FR 35816) on July 29, 1991. It was effective from July 31, 1991, through September 28, 1991. Comments were accepted through September 13, 1991. On September 23, 1991, the Coast Guard issued a third temporary rule with request for comments under the provisions of 33 CFR 117.43 to evaluate another alternative opening schedule being considered. That rule was published in the **Federal Register** (56 FR 49145) on September 27, 1991. It was effective from September 29, 1991, through November 27, 1991. Comments were accepted through November 12, 1991. On November 20, 1991, the Coast Guard issued a fourth temporary rule with request for comments under the provisions of 33 CFR 117.43 to evaluate a variation of one of the alternative opening schedules being considered. That rule was published in the **Federal Register** (56 FR 59880) on November 26, 1991. It was effective from November 28, 1991, through January 27, 1992. Comments were accepted through January 13, 1992.

In order to propose a permanent change in the operating rule for the Woodrow Wilson Bridge, a notice of proposed rulemaking was published on December 20, 1991 (56 FR 66326), and comments on all alternatives under consideration are being solicited.

Comments are also invited concerning any particular problems experienced with this temporary schedule. These comments will be evaluated and modifications may be made or an alternate temporary schedule of openings may be established for the purpose of further evaluation. All comments received will also be considered along with those received in connection with the permanent operating schedule rule change being considered. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rule. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

This temporary rule serves the immediate interests of highway traffic with no expected significant adverse impacts on marine traffic. It is a variation of one of the alternative opening schedules previously evaluated and is the fifth in a series of temporary rules being evaluated to gather information for drafting a new permanent rule. For these reasons, pursuant to 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking. Further, because the Coast Guard agrees that it is not acceptable to revert to the existing permanent rule on the expiration of the current temporary deviation on January 27, 1992, it finds pursuant to 5 U.S.C. 553(b), that good cause exists for making this rule effective in less than 30 days after the date of publication in the **Federal Register**.

Regulatory Evaluation

This temporary rule is considered to be nonmajor under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations are temporary and may be withdrawn earlier than scheduled. They are not expected to have any substantial effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with the proposal for permanent regulations, and consider them at that time.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.255 is temporarily amended by revising paragraph (a)(2) to read as follows: (This is a temporary rule and will not appear in the Code of Federal Regulations.)

§ 117.255 Potomac River.

(a) * * *

(2) Need not open:

(i) Except as provided in paragraph (a)(1) of this section, for the passage of any vessel unless at least 2 hours advance notice is given to the bridgetender at (202) 727-5522.

(ii) For the passage of any vessel from 5 a.m. to 9 a.m. and from 2 p.m. to 6 p.m., on Mondays through Fridays other than Federal holidays.

(iii) For the passage of any vessel from 2 p.m. to 7 p.m. on Saturdays, Sundays, and Federal holidays.

(iv) For the passage of any vessel other than a commercial vessel with a draft of over 20 feet from 4 a.m. to 5 a.m., from 9 a.m. to 10 a.m., and from 6 p.m. to 8 p.m., on Mondays through Fridays other than Federal holidays.

(v) For the passage of recreational vessels from 4 a.m. to 12 midnight with the exception of one opening at 11 a.m., if requested, on Mondays through Fridays other than Federal holidays.

(vi) For the passage of recreational vessels from 6 a.m. to 12 midnight with the exception of one opening at 11 a.m., if requested, and one opening at 9 p.m., if requested, on Saturdays, Sundays, and Federal holidays.

(vii) This temporary rule is effective from January 28, 1992, through March 27, 1992.

* * * * *

Dated: January 16, 1992.

W.T. Leland,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 92-1888 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA-1-1-5109; A-1-FRL-4095-5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Deletion of Zero Emission Limitation for James River Paper

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision deletes the source-specific emission limitation for James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.), located in Richmond, Virginia. Custom Papers Group emits volatile organic compounds (VOCs) from its operation. VOCs are precursors to ozone pollution. Richmond, Virginia is classified as a moderate ozone nonattainment area subject to the requirements of the 1990 Clean Air Act Amendments. As a result of this SIP revision approval, Custom Papers Group will be subject to the federally approved reasonably available control technology (RACT) regulations for paper coating in the Virginia State Implementation Plan (SIP). The intended effect of this action is to approve the deletion of the source-specific emission limitation for James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.) and in doing so require it to meet the RACT requirements in the Virginia SIP. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This action will become effective March 27, 1992 unless notice is received by February 26, 1992 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, U.S. EPA Region III, (215) 597-9337; FTS 597-9337.

SUPPLEMENTARY INFORMATION: On April 19, 1991, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of deleting the source-specific emission limitation for James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.).

The currently approved Virginia SIP contains a source-specific emission limitation of zero for James River Paper Co. At the time that this zero emission limitation was approved, the Company believed that it could meet the requirement even though the EPA-approved Virginia SIP contained paper coating regulations which would allow the other applicable sources to meet a limit of 2.9 pounds (lbs) VOC/gallon coating less water. In addition, EPA's guidance on RACT for paper coating sources such as James River Paper stated that an emission limit of 2.9 lbs VOC/gallon coating less water would be considered RACT. The Company subsequently determined that it could not meet the zero emission limitation but could meet the RACT limit of 2.9 lbs VOC/gal coating less water. Removal of the source-specific emission limitation for James River Paper does not require imposition of the 2.9 lbs VOC/gal coating less water standard because the Company is automatically subject to the Virginia paper coating regulations once this source-specific limitation is removed from the SIP. A more detailed discussion can be found in the technical support document accompanying this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective March 27, 1992 unless, by February 26, 1992, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on March 27, 1992.

Final Action

EPA is approving the deletion of the source-specific zero emission limitation for James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.) thereby requiring the Company to meet the applicable paper coating RACT regulations previously approved by EPA in the Virginia SIP (Virginia SIP regulation 4.55 (h) now recodified and amended as Virginia Rule 4-31, amended and effective on July 1, 1991).

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental

factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), the Regional Administrator certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action, pertaining to the deletion of the source-specific zero emission limitation for James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.), located in Richmond, Virginia, has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from date of publication]. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: December 6, 1991

Edwin B. Erickson,

Regional Administrator, Region III.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart VV—Virginia

§ 52.2420 [Amended]

2. In § 52.2420, paragraph (c)(77) is removed and reserved.

3. Section 52.2423 is amended by adding paragraph (h) to read as follows:

§ 52.2423 Approval status.

* * * * *

(h) In an April 19, 1991 request submitted by the Virginia Department of Air Pollution Control, the source-specific emission limitation for James River Paper which EPA had approved on August 18, 1983 is deleted. James River Paper Co. (now known as Custom Papers Group—Richmond, Inc.) located in Richmond, Virginia is now required to comply with the applicable Virginia SIP paper coating regulation.

[FR Doc. 92–1657 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3833–3]

Approval and Promulgation of Implementation Plans, OH

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule

SUMMARY: In the March 5, 1985 **Federal Register** (50 FR 8749), USEPA proposed to approve the Harrison Radiator, General Motors Corporation (Harrison Radiator) North and South Facilities State Implementation Plan (SIP) revision for an inter-facility alternative emission control program plan (bubble) between seven metal coating lines and eight degreasers under the April 7, 1982 (47 FR 15076), proposed "Emissions Trading Policy Statement" (bubble policy). These facilities are located in Montgomery County, Ohio. The March 5, 1985, public comment period was extended to April 26, 1985, at the request of Natural Resources Defense Council, Incorporated. No public comments were submitted on USEPA's proposed action.

In today's **Federal Register** final rule USEPA is approving this revision to the ozone portion of the Ohio SIP for Harrison Radiator because it meets the requirements of sections 110 and 172 of the Clean Air Act USEPA's December 4, 1986, bubble policy.

EFFECTIVE DATE: This final rule becomes effective on February 26, 1992.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886–6031, before visiting the Region V Office.) U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

A copy of today's revisions to the Ohio SIP is available for inspection at: Public Information Reference Unit, Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20640.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION:

I. Background

On May 6, 1983, November 25, 1983, April 6, 1984, September 10, 1984, and January 8, 1987, the Ohio Environmental Protection Agency (OEPA) submitted materials constituting a proposed revision to Ohio's ozone SIP for Harrison Radiator. Harrison Radiator has two metal coating facilities; the North facility located in downtown Dayton and the South facility located in the City of Moraine. Both of these facilities are located in Montgomery County, Ohio, which is an urban nonattainment area for ozone which has an approved 1979 Ozone SIP.

In the March 5, 1985 **Federal Register** (50 FR 8749), USEPA proposed to approve the Harrison Radiator North and South Facilities SIP revision for an inter-facility bubble between seven metal coating lines and eight degreasers. The March 5, 1985, public comment period was extended to April 26, 1985, at the request of Natural Resources Defense Council, Incorporated. No public comments were submitted on USEPA's proposed action.

Under the existing federally approved SIP, each metal coating line is subject to the control requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U)(1)(a)(iii). Rule 3745–21–09(U)(1)(a)(iii) contains an emission limit of 3.5 pounds of volatile organic compounds (VOC) per gallon of coating, excluding water. USEPA approved these rules as meeting the Clean Air Act's reasonably available control technology (RACT) [1] requirements on June 29, 1982.

II. USEPA's Bubble Policies

A. Bubble Policies

On April 7, 1982 (47 FR 15077), the USEPA issued a proposed bubble policy which sets forth general principles for the creation, banking, and use of emission reduction credits. This statement indicated that it is the policy of USEPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards. It describes emission trading, sets out general principles USEPA will use to evaluate emissions trade under the Clean Air Act, and expands

[1] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow former Assistant Administrator of Air and Waste Management RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

opportunities for States and industry to use less costly control approaches. The April 7, 1982, **Federal Register** notice, stated that, until USEPA takes final action on its policy statement, State actions involving emission trades will be evaluated under the provisions set forth in the proposed statement. On December 4, 1986 (51 FR 43814), USEPA issued its final bubble policy which contains the criteria by which emission trades are today being evaluated.

A source may secure emission reduction credits by meeting each of the applicable requirements of the final bubble policy. Generally, only reductions which are surplus, enforceable, permanent and qualifiable can qualify as emission reduction credits.

B. Bubble Evaluation

The proposed bubble VOC emission limitations are specified within the special terms and conditions of the variances and permits for coating lines and degreasers that OEPA issued to Harrison Radiator. These limitations are presented below:

Sources	Emissions (tons per year)					
	Actual 1977			Allowable		
	Before bubble	After bubble	Change	Before bubble	After bubble	Change
K001, Dayton [1]	74.70	74.70	0	29.88	74.70	+44.82
K002, Dayton [1]	49.80	49.80	0	19.82	49.80	+44.82
K001, Moraine [1]	14.50	14.50	0	5.80	14.50	+8.70
K002, Moraine [1]	79.76	79.76	0	51.90	79.76	+47.86
K003, Moraine [1]	137.76	137.76	0	55.10	137.76	+82.66
K004, Moraine [1]	4.86	4.86	0	1.93	4.86	+2.93
K005, Moraine [1]	4.86	4.86	0	1.93	4.86	+2.93
L002-L006 [2]	526.67	0	−526.67	263.330	0	−263.33
Total	892.67	365.94	−526.67	409.79	365.94	−43.55

[1] Surface coating lines.
[2] Combined total for degreasers.

The "after bubble" emissions for the coating lines are the limits contained in the variances. The reduction from sources L002–L006, L009, L010, and L014, are incorporated in a September 1, 1984, Order of the Director of the OEPA which states that organic material emissions from these sources must be zero pounds per year. Therefore, these reductions are permanent and allowable. Emissions from the sources involved in the revision will be 365.94 tons per year.

The criteria used for evaluation of this bubble are contained in USEPA's December 4, 1986, bubble policy. This policy states that bubbles in nonattainment areas with approved attainment demonstrations (such as Montgomery County) must show that applicable standards and increments will not be jeopardized and must meet all other requirements of USEPA's April 7, 1982, bubble policy. The 1982 bubble policy states that in nonattainment areas which used allowable emissions as the basis for their attainment strategy, sources can use their SIP allowable limits as the baseline for creating emission reduction credits.

The approved 1979 ozone attainment demonstration for Montgomery County is based on a RACT-allowable emission rate and actual values for capacity utilization and hours of operation. Harrison Radiator used the baseline calculation using the 1977 RACT-allowable emissions for the degreasers and the emission rate of 3.5 pounds of VOC per gallon of coating excluding water, contained in Ohio's SIP for the surface coating lines.

The emission trading policy requires that all emission and production limits in the trade be federally enforceable. The permits for the coating lines include limits for lb VOC/gallon coating employed excluding water, lb VOC/day and ton VOC/year as well as limits on hours/day and days/year of operation.

However, the emission limits are not enforceable on a daily as a practical matter, since records on quantities of coatings used are determined monthly. Additionally, since the permits do not include a requirement to record daily hours of operation, compliance with the operating restrictions cannot be determined. In November 8, 1989, December 18, 1989, and January 29, 1990, letters, USEPA issued a SIP call to Ohio to require, inter alia, that Ohio's VOC regulations specify the appropriate recordkeeping and test methods.[2]

The approved attainment demonstration for the area assumes VOC emissions from decreasing operations at Harrison Radiator's Dayton facility to be 883 tons per year and VOC emissions from the seven surface coating lines to be 64 tons per year. Since the total emissions allowed by the variances for the degreasers and coating lines (365.94 tons per year) are less than those assumed in the approved attainment demonstrations, the bubble will not jeopardize attainment.

Air Quality Considerations

There have been measured violations of the ozone NAAQS in both Montgomery and Clark (which is downwind of Montgomery) Counties in the 1982 through 1984 time periods. Two of the Montgomery County monitoring sites produce a (fourth high) design value of 0.127 parts per million (ppm) ozone.

USEPA's criteria for determining which SIPs need to be revised, due to post 1982 nonattainment, is contained in a July 25, 1984, memorandum from G.T. Helms, Chief, Control Programs Operations Branch. This policy memorandum states that calls for ozone SIP revisions should be made in all cases where the design value is greater than or equal to 0.140 ppm and the number of observed exceedances is greater than 1.0. An ozone SIP call was not made in Montgomery County because the 0.127 ppm design value is considerably under the 0.140 ppm cutpoint.

Additionally, these measured violations will not interfere with final approval of this bubble for the following reasons:

1. Montgomery County has an approved ozone SIP and has a downward trade in monitored ozone concentrations at the two

[2] In the interim, USEPA will enforce the Harrison Radiator daily emission limits through a section 114 Order, which requires the company to keep daily record of solvent usage, daily hour of operation, and determine compliance with the emission and production limits using the daily data.

Montgomery County monitors with measured violations.

2. Additionally Federal Motor Vehicle Control Program (FMVCP) VOC reductions will occur up to and beyond 1987. These FMVCP requirements will cause mobile source VOC reductions of about 5 percent per year.

3. There are VOC sources in Montgomery County which are not in compliance with the federally approved SIP. These sources contribute to the ozone standard exceedances.

Harrison Radiator's bubble meets the requirements of the 1982 proposed bubble policy. In addition, it meets the requirements of the final bubble policy. Its approval will not jeopardize attainment of the ozone standard in Montgomery County, Ohio.

The Office of Management and Budget has exempted this rule from the requirement of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 1992. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 12, 1990.

William K. Reilly,

Administrator.

Editorial Note: This document was received at the Office of the Federal Register January 17, 1992.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, chapter I, part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding new paragraph (c)(68) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(68) On May 6, 1983, the Ohio Environmental Protection Agency (OEPA) submitted materials constituting a proposed revision to Ohio's ozone SIP for Harrison Radiator. Harrison Radiator has two metal coating facilities; one is the North facility located in downtown Dayton and the other is the South facility located in the City of Moraine.

(i) Incorporation by reference.

(A) The Ohio Environmental Protection Director's final Findings and Orders, May 6, 1983.

(B) Letters of September 10, 1984, and September 4, 1984, to USEPA from OEPA.

(C) The Ohio Environmental Protection Director's final Findings and Orders, September 4, 1984.

* * * * *

[FR Doc. 92–1651 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR PART 81

[WI9–1–5269; FRL–4095–4]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: WI

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On September 8, 1988, (53 FR 34791), USEPA proposed to disapprove a request from the State of Wisconsin to redesignate a subcity portion of Green Bay, Wisconsin (Brown County) from primary nonattainment to attainment for sulfur dioxide (SO_2). USEPA's proposed action was based on the State's failure to provide sufficient evidence that: Certain necessary stack modifications at Wisconsin Public Service Company (WPS)-Pulliam, Nicolet Paper, and Green Bay Packaging had been completed; and all sources were in compliance with the emission limits in the recently submitted State rule. USEPA also stated that, even if these problems had not existed, final redesignation could not occur until USEPA had approved the State SO_2 plan for Green Bay. USEPA approved the State Implementation Plan for this subcity portion of Green Bay on November 5, 1991 (56 FR 56467).

In today's **Federal Register** final rule, USEPA is approving the State's request to redesignate Green Bay (Brown County), Wisconsin, from nonattainment to attainment for SO_2 because the Wisconsin Department of Natural Resources (WDNR) submitted comments containing sufficient data to support its request to redesignate Brown County from nonattainment to attainment for SO_2.

EFFECTIVE DATE: This final rule becomes effective on February 26, 1992.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Toxics and Radiation Branch (5AT–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Pamela Blakley, (312) 886–6054.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (CAA), the Administrator of USEPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for all areas within each State. For Wisconsin, see 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978), codified at 40 CFR 81.350. These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation. A portion of the City of Green Bay,[1] Wisconsin in Brown County, was designated as not attaining the primary SO_2 standards. For areas designated nonattainment for SO_2, and SO_2 State Implementation Plan (SIP) is required which satisfies the requirements of section 110(a) and part D of the CAA, including assuring the attainment and maintenance of the SO_2 NAAQS.

On May 7, 1987, pursuant to section 107(d)(5) of the CAA,[2] the WDNR requested that the City of Green Bay nonattainment area be redesignated to attainment of the SO_2 NAAQS.

Redesignation Requirements

Under the pre-amended Act, USEPA's SO_2 redesignation requirements

[1] Brown County (City of Green Bay): Subcity primary SO_2 nonattainment area is defined as follows:

North: Green Bay.

West: W. Mason St. and Ashland Ave., along Ashland north to Matter St., west to Crocker St., north on Crocker St. to Bylsby, then to Green Bay.

South: W. Mason St. and Ashland Ave., east along Mason to Irwin Ave.

East: W. Mason St. and Irwin Ave., along Irwin Ave. north to Green Bay.

Remainder of Corporate Limits of Green Bay is designated "cannot be classified".

Remainder of Brown County is designated attainment.

[2] The Clean Air Act was amended on November 15, 1990, Pub. L. 101–549, codified at 42 U.S.C. 7401–7671q. References to the pre-amended Act are cited as CAA and references to the amended Act will be cited as CAAA.

implementing the CAA were found in two memoranda: Sheldon Meyers to Air and Waste Management Division Directors, "Section 107 Designation Policy Summary", April 21, 1983; and G.T. Helms to Air Branch Chiefs, "Section 107 Questions and Answers", December 23, 1983. USEPA based its proposed disapproval of the Green Bay SO_2 redesignation request for this subcity portion on the failure of Wisconsin to meet the CAA criteria for redesignation as interpreted in those memoranda. The rationale for the disapproval is discussed in greater detail in USEPA's September 8, 1988 proposal (53 FR 34791).

On November 15, 1990, the Clean Air Act Amendments (CAAA) of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q (1991). The amended Act added several new requirements for redesignation from nonattainment to attainment, most notably, the requirement for a maintenance plan that meets the requirements of section 175A of the CAAA. Section 107(d)(3)(E), 42 U.S.C. 7407(d)(3)(E). The effect of the amended Act is discussed more fully under "Requirements under the CAAA," below.

Proposal and Comments

On September 8, 1988, USEPA proposed to disapprove Wisconsin's request to redesignate the subcity portion of Green Bay from primary nonattainment/unclassifiable to attainment for SO_2. USEPA's proposed action was based on the State's failure to provide sufficient evidence that: (1) The necessary stack modifications at WPS-Pulliam, Nicolet Paper, and Green Bay Packaging had been completed, and (2) all major sources were in compliance with the emission limits in the recently submitted State rule. These stack modifications were requested as part of the Green Bay SO_2 SIP revision, and were found to be consistent with USEPA's Good Engineering Practice Stack Height Regulations. In addition, USEPA also noted that final redesignation could not occur until the State Green Bay SO_2 plan for this subcity portion had been approved. During the public comment period USEPA received comments from the Green Bay Industrial Coalition (GBIC) and from WDNR. Both commenters opposed the disapproval and supported redesignation of Green Bay. Summarized below is USEPA's evaluation of the public comments received.

The GBIC opposed USEPA's proposed disapproval action and urged WDNR and USEPA to work together to resolve the deficiencies cited in the Notice of Proposed Rulemaking. WDNR did, in fact, submit additional information which showed that the stacks in question had been constructed and stated that the major sources in Green Bay were in compliance with the new State rule. In addition, both commentors (GBIC and WDNR) also expressed the concern that USEPA had not acted in a timely fashion on the State rule for Green Bay.

Concerning the additional information submitted by WDNR, USEPA acknowledges that new stacks have been constructed at WPS-Pulliam, Nicolet Paper, and Green Bay Packaging.[3]

Requirements Under the CAAA

Since the CAAA were enacted prior to today's action, USEPA would generally be required to apply the new law to actions currently pending before the Agency. However, USEPA does not believe that Congress intended to impose new requirements on those redesignations that had substantially completed the redesignation process.[4] Furthermore, the Agency is not required to apply a new law where strict application of the new provisions would produce an irrational or unjust result. See 56 FR 37285, 37286-87 (Aug. 6, 1991).

Literal application of the new redesignation requirements would produce an irrational or unjust result in the present circumstances. In addition, it would be unreasonable to require both the State, which has completed all necessary action on its part, and USEPA, which had substantially completed all necessary action, to repeat these steps under the new provisions of the CAAA. USEPA initially proposed to disapprove the submission in September of 1988 but indicated required elements that would allow the Agency to approve the submittal. Wisconsin submitted responsive technical support during the public comment period. These submittals cured the two deficiencies and USEPA determined to approve the redesignation request. Moreover only one other comment was received and that commenter supported redesignation.

Because the action was substantially complete prior to enactment, and the only remaining action was for USEPA to publish its final approval of the redesignation, it would be unequitable to require Wisconsin to re-initiate the redesignation process by making a new and more complex submittal and to subject the Green Bay area to the new requirements for nonattainment areas during the period it takes to meet these new redesignation requirements.

Conclusion

USEPA is approving the redesignation request for the subcity portion of Green Bay, Wisconsin (Brown County) from nonattainment to attainment for the pollutant SO_2, because the WDNR has demonstrated that the area has attained the SO_2 NAAQS in accordance with the pre-amended CAA.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. Each request for a revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action is classified as a Table Two redesignation action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table Two and Three SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as its rules on USEPA's request.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate Circuit by March 27, 1992. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas, Sulfur dioxide.

Authority: 42 U.S.C. 7401-7671q.

[3] The State rule for Green Bay Packaging specifies one set of emission limits (ranging from 2.87-3.88 pounds of SO_2 per million British Thermal Units—lbs/MMBTU) for all boilers ducted to a new 65 meter (m) stack and a second emission limit (0.5 lbs/MMBTU) for all boilers ducted to their existing (less than 65m) stacks. Based on the information submitted by WDNR, Boiler 26 is now ducted to a 65m stack, but the other boilers (Boilers 21-25) are still ducted to their existing (less than 65m) stacks. Consequently, Boilers 21-25 must meet a 0.5 lbs/MMBTU emission limit until such time as they are connected to the 65m stack.

[4] EPA does not believe, however, that Congress clearly intended these new requirements to apply to newly submitted redesignation requests and those for which USEPA was just beginning the redesignation process.

Dated: December 24, 1991.

Valdas V. Adamkus,

Regional Administrator.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.350, in the "Wisconsin—SO_2" table, under AQCR 237, the entry for Brown County is revised to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
AQCR 237:				
Brown County (city of Green Bay): Subcity area defined as follows				X
North: Green Bay				
West: W. Mason St. and Ashland Ave., along Ashland north to Matter St., west to Crocker St., north on Crocker St. to Bylsby St., then to Green Bay				
South: W. Mason St. and Ashland Ave., east along Mason to Irwin Ave.				
East: W. Mason St., and Irwin Ave., along Irwin Ave. north to Green Bay				
Remainder of corporate limits of Green Bay			X	
Remainder of Brown County				X
* * * * * * *				

[FR Doc. 92–1653 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412 and 413

[BPD–681–CN]

RIN 0938–AE59

Medicare Program; Prospective Payment System for Inpatient Hospital Capital-Related Costs; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction.

SUMMARY: In the August 30, 1991 issue of the **Federal Register** (FR Doc. 91–20779) (56 FR 43358), we revised the Medicare payment methodology for inpatient hospital capital-related costs for hospitals paid under the prospective payment system. We replaced the reasonable cost-based payment methodology with a prospective payment methodology for capital-related costs. This notice corrects errors made in that document.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Barbara Wynn, (410) 966–4529.

List of Subjects

42 CFR Part 412

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

I. We are making the following corrections to the preamble of the August 30, 1991 final rule (56 FR 43358).

1. On page 43364, in the first column, in the tenth line from the bottom of the page, the word "transporation" is changed to "transition".

2. On page 43366, in the first column, in the fourth line of the second Response, the phrase "of excluded hospitals" is change to read "or excluded hospitals".

3. On page 43368, in the table "Comparison of Base Capital per Admission from the NPRM and the Final Rule", the column heading "Percent change from NPRM" is changed to read "Percent change from Previous Line".

4. On page 43370, in the chart in the third column, "Total Cost Regression Results and Associated t-Statistics", in the next to last line, the number of hospitals is changed from "4922" to "4,923".

5. On page 43383, in the third column, in the sixteenth line of the second Response, the word "reducing" is changed to "reduction".

6. On page 43384, in the second column under "Step 5-Exceptions Reduction Factor", in the third paragraph, in the second line, the word "until" is changed to "will".

7. On page 43384, in the third column, under "Step 6-Budget Neutrality Adjustment Factor", in the last paragraph, in the tenth line, the number "8.4" is changed to "8.7".

8. On page 43391, in the first column, in the paragraph following the Case-mix increase table, in the twelfth line, the year "1988" is changed to read "1990".

9. On page 43394, in the second column, in the last bullet, the phrase "and the asset is put into use" is inserted following the word "completed".

10. On page 43395, in the third column, in the first line, the phrase "or reasonable cost" is changed to read "of reasonable costs".

11. On page 43397, in the second column, under "b. Interest expense.", in the first paragraph, beginning in the third line, following the word "cost", the phrase "allowable capital-related cost" is deleted.

12. On page 43404, in the first column, in the tenth line of the first full Response, the word "maintaining" is changed to "causing".

13. On page 43406, in the third column, under "Step 6—Payment Under the Hold-Harmless Payment Methodology", in the fourth bullet, in the first line, a period is inserted after the word "rate". In the same line, the word "after" is changed to "After".

14. On page 43409, in the first column, in the first full paragraph, in the ninteenth line, a decimal point is inserted before the number "0692".

15. On page 43409, in the third column, in the second line, the word "or" is deleted.

16. On page 43409, in the third column, in the eighth line from the bottom of the page, the citation "§ 412.106(C)(2)" is changed to read "§ 412.106(c)(2)".

17. On page 43412, beginning in the last line of the first column, the phrase

"these inpatient services" is changed to read "these hospitals are to be paid the reasonable costs of their inpatient services".

18. On page 43412, in the second column, in the second full paragraph, in the fourth line, the citation "1886(9)(I)(A)" is changed to read "1886(g)(1)(A)".

19. On page 43417, in the first column, beginning in the third line of the second Comment, the phrase "are concerned" is changed to read "expressing concern".

20. On page 43419, in the first column, under the Hold-Harmless Payment Methodology, in 2., in the eighth line, the parentheses is closed after the word "percent" and the phrase "X (Budget Neutrality Adjustment Factor, if applicable)" is deleted.

21. On page 43419, in the second column, under "a. Hospital-specific rate calculation:", in the fourth line, the parentheses enclosing "1550.7" are deleted.

22. On page 43420, in the first column, under "ii. Payment including hold-harmless payments:", in the fourth line of the paragraph entitled "Old capital payment portion of hold-harmless payment methodology", the "multiply by" sign is removed after the number ".85".

23. On page 43420, in the second column, under "2. Exception Payment Process", beginning in the second line of the second bullet, the phrase "(or rural hospitals with 500 or more beds)" is deleted.

24. On page 43420, in the second column, under "2. Exception Payment Process", in the second paragraph, in lines five, eleven, and thirteen the word "would" is changed in all three places to "will".

25. On page 43420, in the third column, in the first full paragraph, in the second line, the word "would" is changed to "will".

26. On page 43422, in the third column, in the third line from the bottom of the page, the word "used" is inserted after the word "been".

27. On page 43429, in the first column, in the ninth line of the first paragraph under section i. Introduction. the word "grouping" is changed to "groupings".

28. On page 43429, in the second column, in the last sentence of the first partial paragraph, the word "Over" is changed to "About".

29. On page 43430, in the third column, in section iv., line 14, the phrase "For hospitals located in other urban areas" is inserted at the beginning of the sentence. In the same line, the word "The" is changed to "the".

30. On page 43431, in the second column, in section e., line 13, the word "considered" is changed to "consideration".

31. On page 43434, TABLE 4, in the third column, "PERCENT DIFFERENCE FROM NATIONAL AVERAGE", in the sixth line from the bottom of the page, the value for the East South Central region, "2.7" is changed to "12.7".

32. On page 43444, TABLE 6, in the seventh column, "ADJUSTED FEDERAL RATE", in the fourth line from the bottom of the page, the value for the West South Central region is changed from "10.4" to "−10.4".

33. On page 43445, TABLE 6, in the fifth column, "STANDARDIZED COST PER CASE", in the sixth line from the bottom of the page, the number "643" is changed to "642".

II. We are making the following correcting amendments to Part 412 and 413:

PART 412—[AMENDED]

33a. The Authority for Part 412 continues to read as follows:

Authority: Sections 1102, 1815(e), 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395g(e), 1395hh, and 1395 ww).

§ 412.80 [Amended]

34. In § 412.80(a)(1)(ii)(B), the phrase "a fixed multiple of the" is added after "October 1, 1991,".

§ 412.113 [Amended]

35. In § 412.113(a)(3), the word "hospital" is changed to the phrase "a hospital with a hospital-specific rate above the Federal capital rate".

§ 412.116 [Amended]

36. In § 412.116(b)(3)(ii)(B), the phrase "and under § 412.308 for cost reporting periods beginning on or after October 1, 2001" is added after "applicable,". In the same paragraph, the term "case mix" is changed to "case-mix index".

§ 412.116 [Amended]

37. In § 412.116(b)(3)(ii)(C), after the term "operating costs," first appears the phrase "and, for cost reporting periods beginning on or after October 1, 1991, for inpatient capital-related costs," is added. In the same paragraph, after the term "operating costs" appears the second time the phrase "and capital-related costs" is added.

§ 412.302 [Amended]

38. In § 412.302(a), the phrase "when they are capital costs" is removed. In the same paragraph, the word "costs" is inserted after the word "capital".

§ 412.302 [Amended]

39. In § 412.302(c)(1)(i)(D), the word "the" is inserted before the word "lesser".

§ 412.302 [Amended]

40. In § 412.302(c)(1)(v), second sentence, the word "provide" is changed to "include", and the word "made" is changed to "prepared".

§ 412.302 [Amended]

41. In § 412.302(d)(2), first sentence, the word "was" is changed to "were".

§ 412.302 [Amended]

42. In § 412.302(d)(3), first sentence, the word "method" is changed to "methods".

§ 412.308 [Amended]

43. In § 412.308(c)(4)(ii), the word "factor" is changed to "factors".

§ 412.320 [Amended]

44. In § 412.320(a), paragraph designations are added as follows. The phrase "either of the following conditions is met" and the paragraph designation "(1)" are inserted after the first word "if", and the word "the" is changed to "The". A period and the paragraph designation "(2)" are inserted after "§ 412.106(b)", and the phrase "or if the hospital" is changed to read "The hospital".

§ 412.320 [Amended]

45. In § 412.320(b)(1), the reference to "paragraph (a)" is changed to "paragraph (a)(1)".

§ 412.324 [Amended]

46. In § 412.324(b)(2), the term "hold harmless payment methodology" is changed to "hold-harmless payment methodology". In that same paragraph, the citation "§ 412.328(a)(3)" is changed to "§ 412.328(a)(2)".

§ 412.324 [Amended]

47. In § 412.324(b)(3), the phrase "old capital described in § 412.344(a)(a)" is changed to "old capital costs described in § 412.344(a)(1)".

§ 412.328 [Amended]

48. In § 412.328(c)(1), in Step 2, the phrase "is divided by the transfer adjustment factor" is changed to "is divided by the adjusted discharges used to calculate the transfer adjustment factor".

§ 412.328 [Amended]

49. In § 412.328(f)(1)(iii), the word "first" is added between the words "the" and "cost". In the same paragraph, the phrase "beginning on or after October 1, 1991 or the cost reporting

period" is added after the words "reporting period". Also, in the same paragraph, the phrase ", whichever is later" is added after the words "base period".

§ 412.328 [Amended]

50. In § 412.328(f)(3)(iii), the term "and budget neutrality adjustment" is changed to "and a budget neutrality adjustment".

§ 412.336 [Amended]

51. In § 412.336(c)(1), the date "October 1, 1990" is changed to "October 1, 1991".

§ 412.344 [Amended]

52. In § 412.344(d)(1), the phrase "and make appropriate adjustments retroactively" is added after the last word "hospital".

§ 412.344 [Amended]

53. In § 412.344(d)(2), the phrase "and is effective retroactively to the beginning of that cost reporting period" is added after the term "cost reporting period".

§ 412.348 [Amended]

54. In § 412.348(b)(1)(ii), the word "a" before the word "urban" is changed to "an".

PART 413—[AMENDED]

§ 413.130 [Amended]

55. In § 413.130(a)(3), the word "fee" is changed to "fees".

§ 413.130 [Amended]

56. In § 413.130(a)(10), the phrase "for patient use" is changed to "used for patient care".

§ 413.130 [Amended]

57. In § 413.130(f), the phrase "A provider must apply debt premiums or debt discounts" is changed to "Debt premiums or debt discount are applied".

§ 413.134 [Amended]

58. In § 413.134(f)(2)(iii)(D), the citation "412.340(a)(1)" is changed to "§ 412.344(a)(1)". In the same paragraph, the word "costs" is inserted after the word "capital".

Table 2a. [Corrected]

59. In Table 2a, the Geographic adjustment factor value for Champaign-Urbana-Rantoul, IL is changed from .9131 to .9128.

Table 2c. [Corrected]

60. The heading for the table that contains the Geographic Adjustment Factors for Hospitals that are Reclassified is changed from Table 2 to Table 2c, wherever it appears.

Table 2c. [Corrected]

61. In Table 2c, the following changes are made in the Geographic adjustment factor values for hospitals that are reclassified:

Area reclassified to—	Geographic adjustment factor
Albany, GA	0.8413
Fayetteville, NC	0.8499
Little Rock-North Little Rock, AR	0.8766
Rockford, IL	0.9377
Sioux Falls, SD	0.9191
Tyler, TX	0.9507

62. **Appendix A**

On page 43522, in the first column, at the end of Appendix A, Figures 1 through 5 are added. These figures, which illustrate portions of the capital acquisition model, were inadvertently omitted.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: January 16, 1992.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

BILLING CODE 4120-01-M

Comparison of Fixed Capital per Bed Increase Distributions

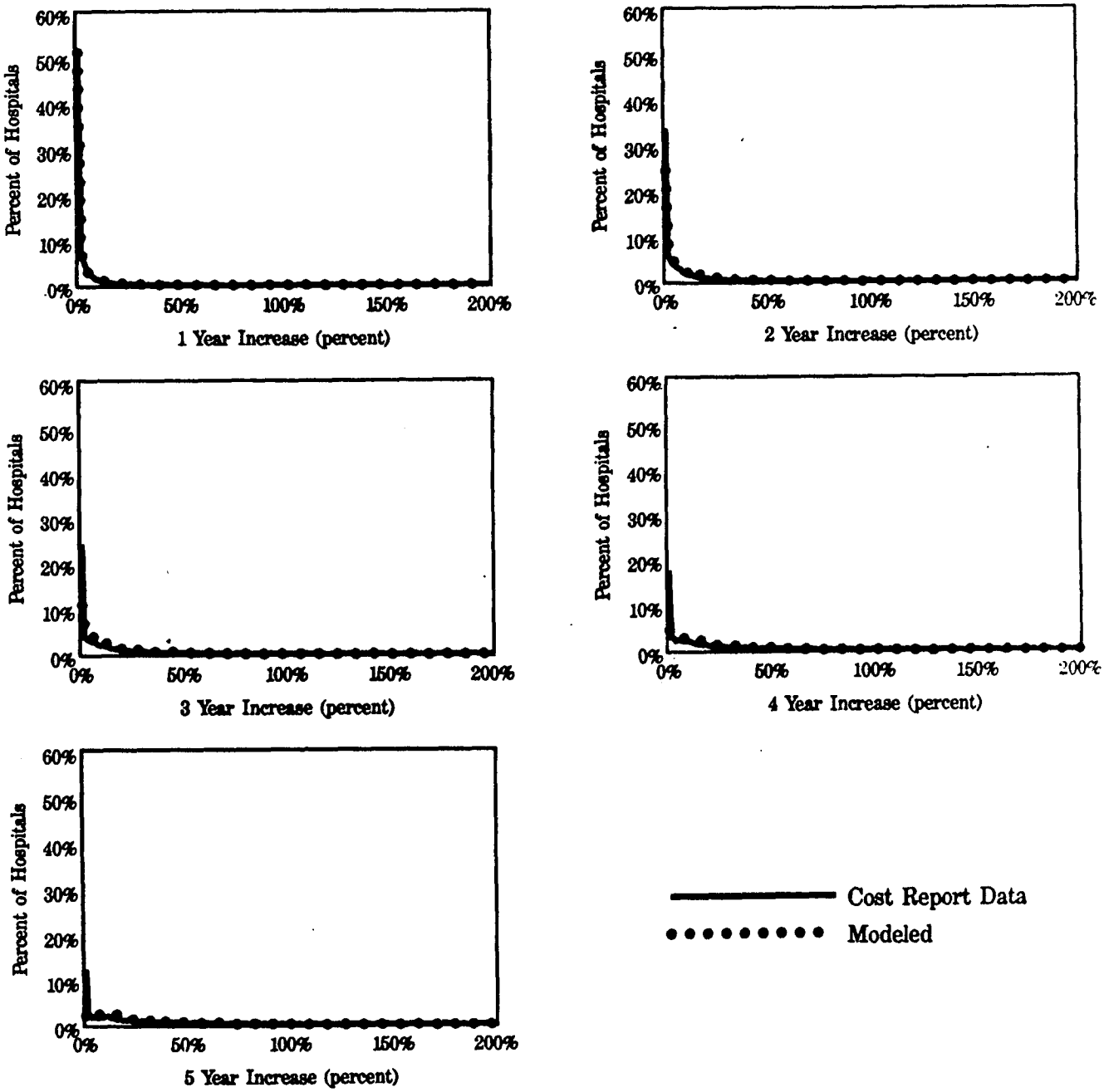

Figure 1

Comparison of Moveable Capital per Bed Increase Distributions

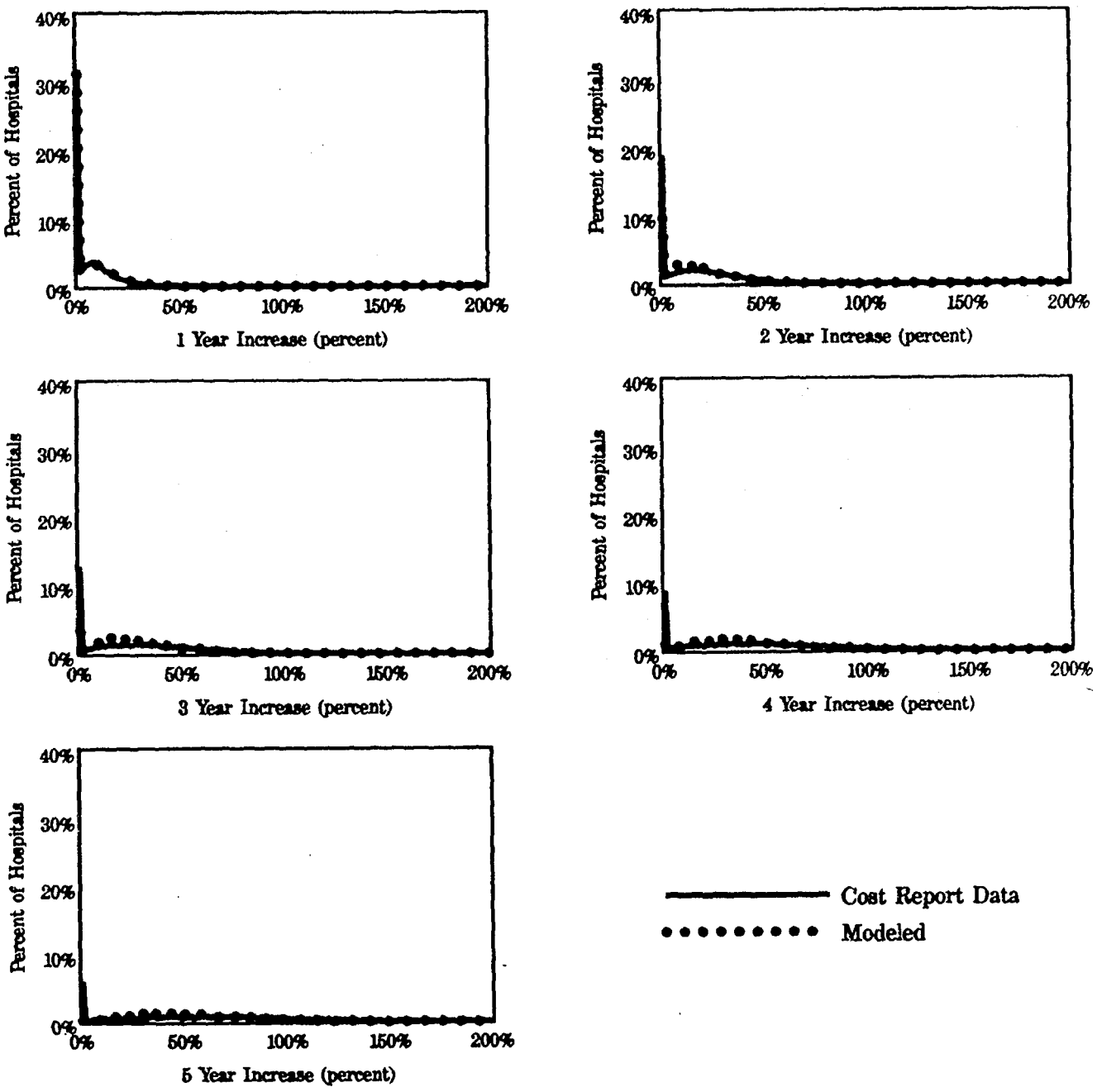

Figure 2

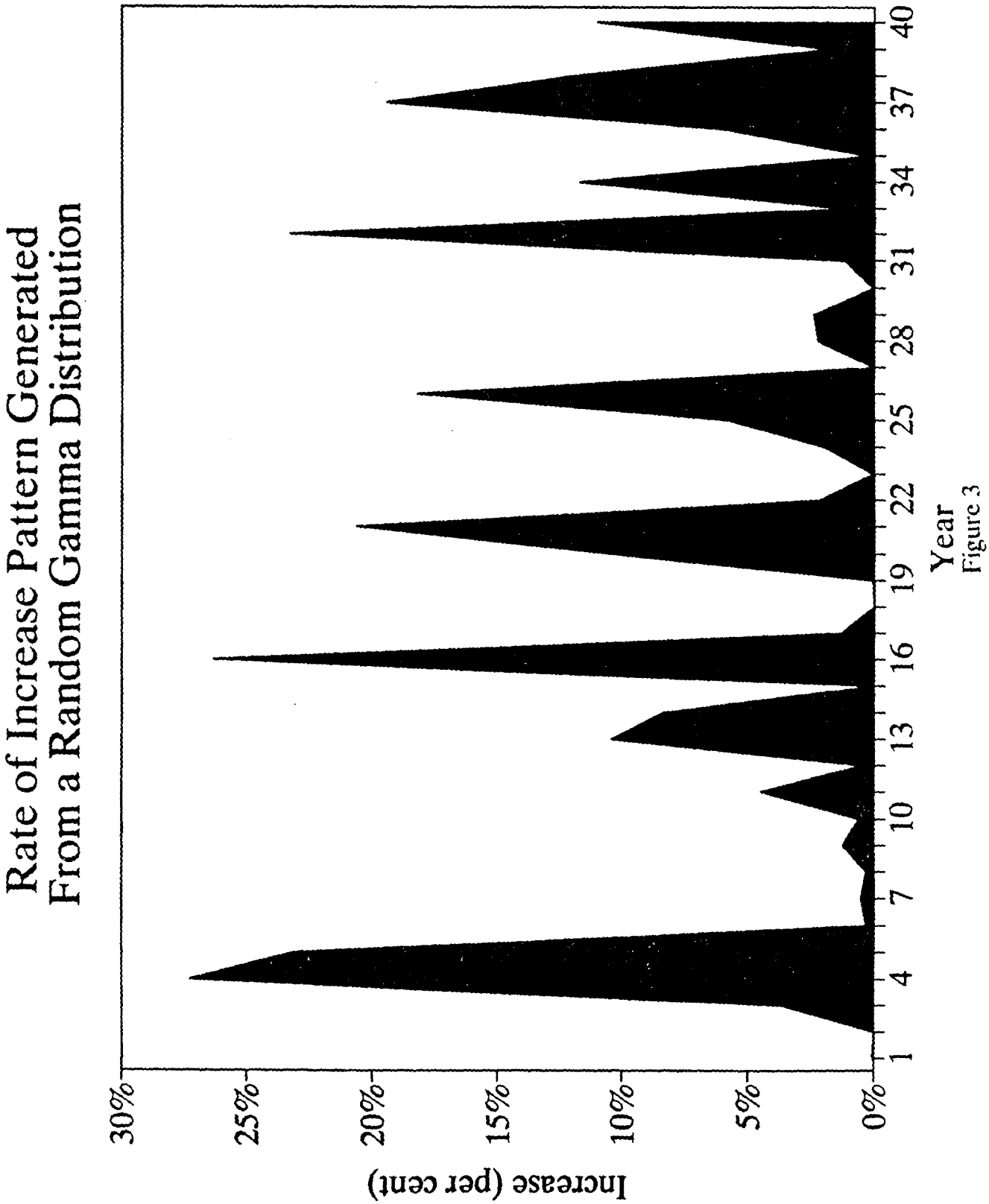
Rate of Increase Pattern Generated
From a Random Gamma Distribution
Increase (per cent)
30%
25%
20%
15%
10%
5%
0%
1
4
7
10
13
16
19
22
25
28
31
34
37
40
Year

Figure 3

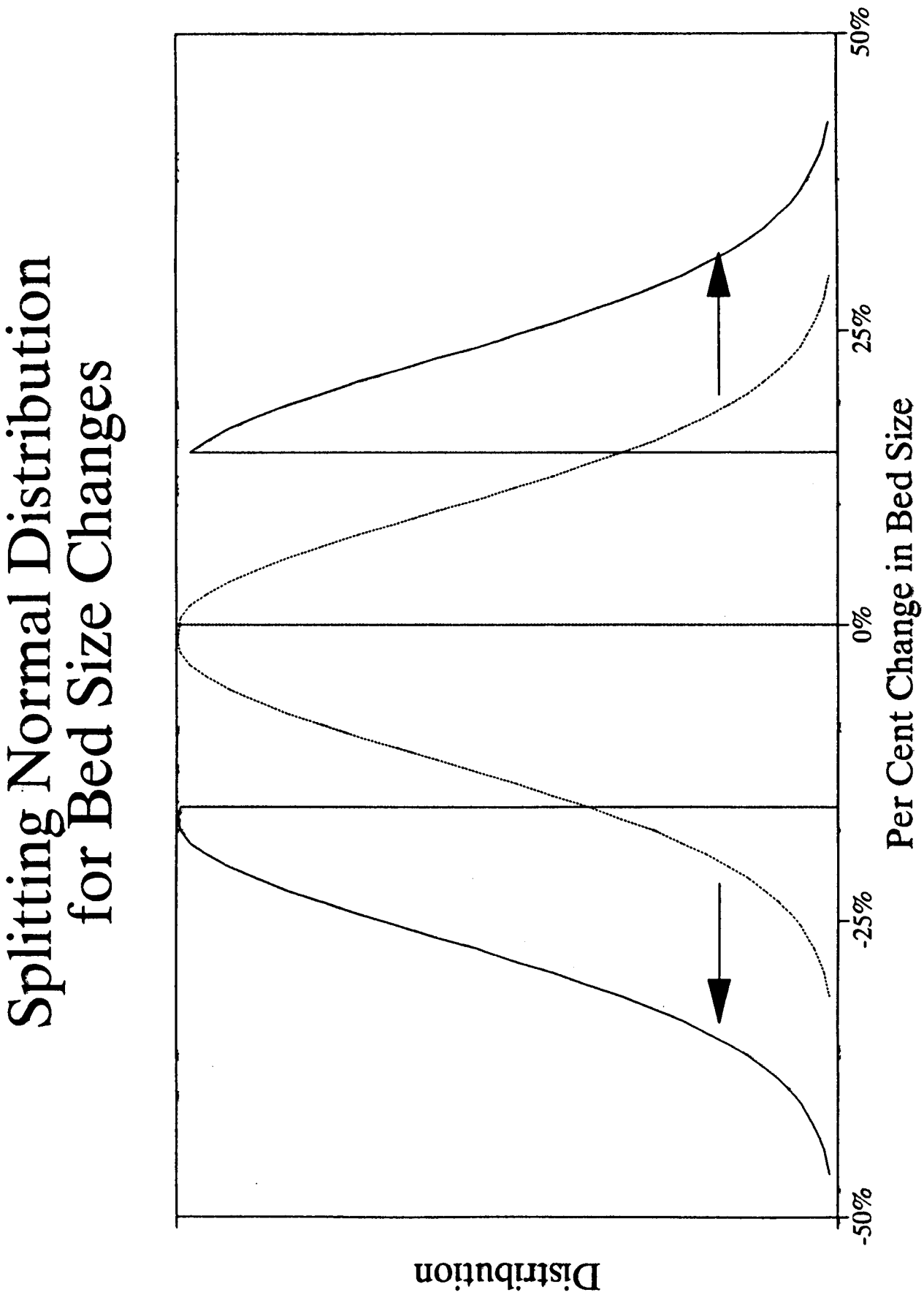
Splitting Normal Distribution
for Bed Size Changes
Distribution
50%
25%
0%
-25%
-50%
Per Cent Change in Bed Size

Figure 4

Distribution of Medicare Capital Cost per Case

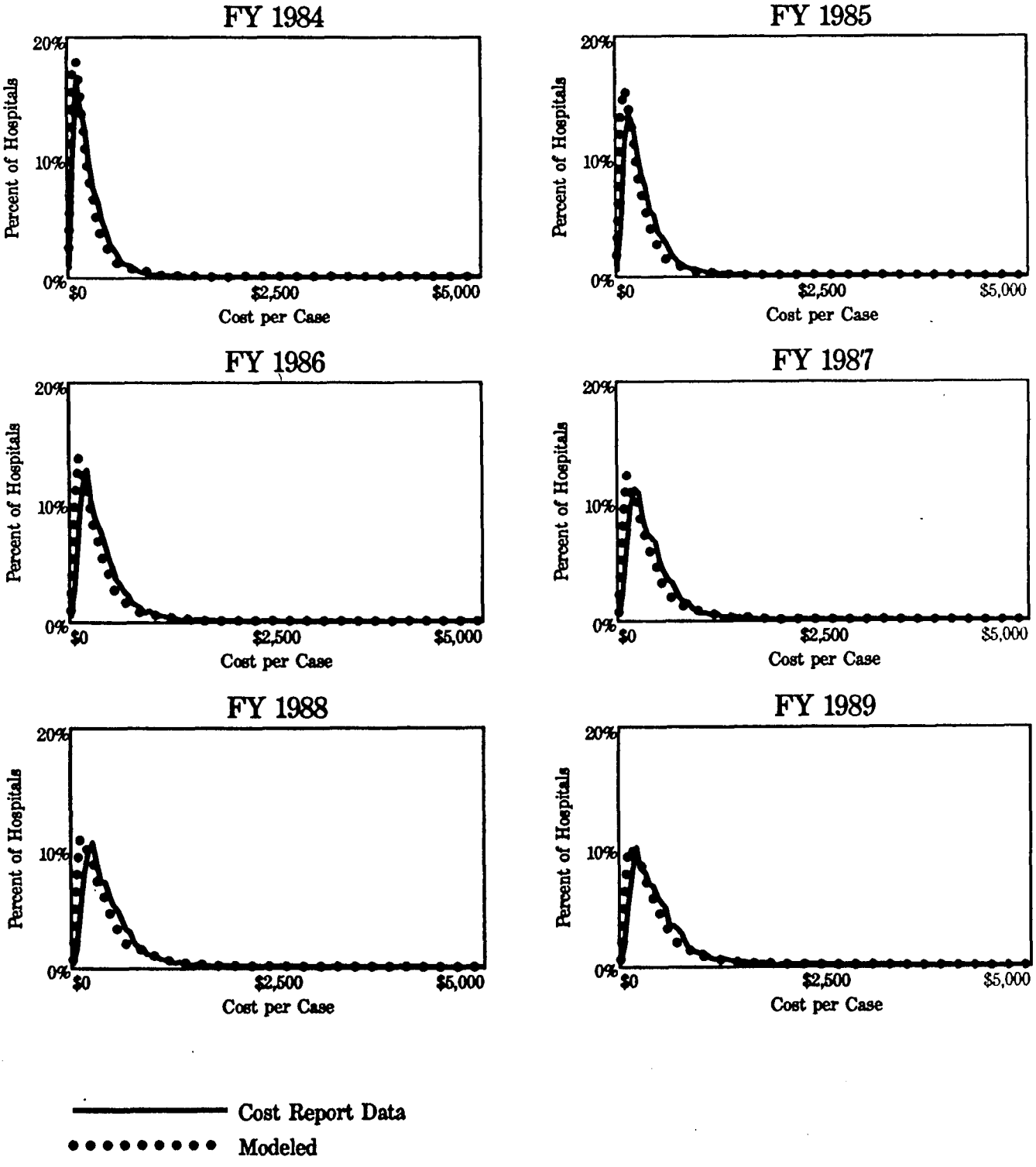

Figure 5

[FR Doc. 92-1623 Filed 1-24-92; 8:45 am]
BILLING CODE 4120-01-C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

RIN 1004-AB21

43 CFR Part 3160

[WO-610-4111-02-24 1A; Circular No. 2534]

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 2, Drilling Operations; Clarification

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends Onshore Oil and Gas Order No. 2—Drilling Operations to clarify certain well control, casing, mud program, and drilling abandonment requirements, and to specify the circumstances when used casing may be utilized.

EFFECTIVE DATE: February 26, 1992.

ADDRESSES: Inquiries or suggestions should be sent to Director (610), Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Robert Kent, (202) 653-2174, or Howard A. Lemm, (801) 539-4032.

SUPPLEMENTARY INFORMATION: Onshore Oil and Gas Order No. 2 (the Order) of the Bureau of Land Management (BLM) on Drilling Operations was published in the Federal Register on November 18, 1988 (53 FR 46798). Experience with and further consideration of the Order showed that certain provisions needed to be amended to improve their clarify and workability, and to elaborate on conditions for applying them. Accordingly, on January 18, 1991 (56 FR 1965), the BLM published a proposed rule to amend the Order and solicited public comment.

The comment period ended on March 19, 1991. In all, 163 comments were received, 160 from business entities or individuals identifying themselves with such entities, 1 from a trade association, and 2 from individuals not stating an affiliation with any business entity. All of the comments were carefully considered in the development of this final rule.

Several comments suggested changes in or clarifications of portions of the Order that were not proposed to be amended in the proposed rule. These suggestions cannot be considered at this time, or included in this final rule, because the public has not had an opportunity to review them. They may be addressed in a subsequent proposed rule.

One comment suggested additional language to make it clear that the fluid level referred to in paragraphs ii. and iii. of article III.A.2.c. is that of the level in the fluid reservoir of the accumulator system. This comment has been adopted in the final rule, and the section on the minimum standards and enforcement provisions for the pressure accumulator system has been amended to provide that the capacity of the fluid reservoir of the system is required to be double the usable fluid volume of the accumulator system as opposed to the total volume of the system. This change will clarify the intent of the Order and accommodate standard reservoir sizes now in use.

The majority of the comments addressed the proposed amendment of article III.B.1.a. that governed the use of used casing. Most of these comments opposed the limitation of used casing to wells of shallow depths and low pressures. At the same time, the comments tacitly accepted the need for reasonable assurance of wellbore integrity and protection of the subsurface environment, stating that used casing meeting or exceeding American Petroleum Institute standards is sufficient. The BLM is persuaded that, in probably the majority of cases, such used casing is sufficient to protect the subsurface environment. In the final rule, the provision has been amended to allow the use of used casing, subject to the approval of the authorized officer, without limitation to particular ranges of depths or pressures.

The casing requirements are, therefore, amended to provide that used casing may be employed only when it is verifiable to be at least 87½ percent of the nominal wall thickness of new casing. This will allow the authorized officer to eliminate the safety risk of used casing being used under circumstances posing a substantial risk of casing failure and resulting environmental degradation and loss of resources.

Article III.B.1.f. is also amended to state that centralizers shall be placed on the bottom 3 joints of surface casing rather than on every fourth joint, with a minimum of 1 centralizer per joint, starting with the shoe joint, in order to allow remedial cementing of the upper part of the casing string. A comment suggested requiring additional centralizers for the surface casing. Requirements in this section merely represent minimum standards, and the BLM encourages operators to exceed those standards. In addition, the authorized officer may require extra centralization for any casing string when necessary to promote cement isolation across usable quality aquifers or other mineral resources. The rule is thus only intended to provide a minimum standard, which can be applied in most ordinary circumstances, but which may be made more stringent in appropriate cases by the authorized officer. The comment is not adopted in the final rule.

The Order is also amended to include a reference to Onshore Oil and Gas Order No. 6—Hydrogen Sulfide Operations, for requirements as to the availability and use of hydrogen sulfide safety and monitoring equipment.

The definition for "Tagging the Plug" when abandoning drilling operations is amended to replace the requirement that the plug be tagged by placing the weight of the string of tubing or drill pipe, with a requirement of placing a weight on the plug sufficient to show that the plug is in place and properly set. This may be the entire unbuoyed weight of the drill string in many cases, but in some cases, due to plug setting depth and compressive strength, excessive weight may cause string fill-up and/or plug damage.

The principal author of this final rule is Howard Lemm of the Montana State Office, assisted by the staff of the Division of Legislation and Regulatory Management, all of the BLM.

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The Bureau of Land Management has determined that this proposed rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), chapter 2, appendix 1, Item 1.10, and that the proposal would not significantly affect the ten criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely

to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The changes in the Order define and clarify the responsibilities of the lessees and operators with respect to drilling operations on Federally supervised leases. Affected parties should derive a benefit from the changes, which may reduce the overall economic burden. The actual impact of the changes would be difficult to quantify. However, they would not meet any of the criteria established by the Executive Order. Further, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that it will not have a significant economic impact on a substantial number of small entities. The principal small entities affected by this rule will be the oil and gas lessees and operators known as "independents," as well as drilling equipment and pipe suppliers. However, the changes will have no significant economic effect on a substantial number of small entities, so long as there is compliance with the applicable requirements. The requirements are applied uniformly without regard to the size of entity affected. While this may be viewed as imposing a more severe burden on small operators and manufacturers, to do otherwise would be discriminatory on its face and could result in the large companies creating small subsidiaries to avoid compliance when operating on Federal and Indian leases.

The Department certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. No real or personal property would be taken as a result of the rule. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

The information collection requirements contained in 43 CFR part 3160 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004–0134 and 1004–0136.

List of Subjects in 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting and recordkeeping requirements.

Under the authorities cited below, and for the reason stated in the preamble, part 3160, Group 3100, subchapter C, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: November 19, 1991.

Richard Roldan,

Deputy Assistant Secretary of the Interior.

PART 3160—[AMENDED]

1. The authority citation for part 3160 is revised to read:

Authority: 30 U.S.C. 183 et seq., 30 U.S.C. 351–359, 30 U.S.C. 301–306, 25 U.S.C. 396, 25 U.S.C. 396a–396q, 25 U.S.C. 397, 25 U.S.C. 398, 25 U.S.C. 398a–398c, 25 U.S.C. 399, 43 U.S.C. 1457. See also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), 40 U.S.C. 471 et seq., 42 U.S.C. 4321 et seq., 42 U.S.C. 6508, Public Law 97–78, 30 U.S.C. 1701 et seq., 25 U.S.C. 2102 et seq.

2. Notes 1 and 2 at the beginning of part 3160 are removed.

§ 3160.0–9 [Added]

3. Section 3160.0–9 is added to read as follows:

§ 3160.0–9 Information collection.

(a) The information collection requirements contained in §§ 3162.3, 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4, 3162.4–1, 3162.4–2, 3162.5–1, 3162.5–2, 3162.5–3, 3162.6, 3162.7–1, 3162.7–2, 3162.7–3, 3162.7–5, 3164.3, 3165.1, and 3165.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance Number 1004–0134. The information may be collected from some operators either to provide data so that proposed operations may be approved or to enable the monitoring of compliance with granted approvals. The information will be used to grant approval to begin or alter operations or to allow operations to continue. The obligation to respond is required to obtain benefits under the lease.

(b) Public reporting burden for this information is estimated to average 0.4962 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0134, Washington, DC 20503.

(c)(1) The information collection requirements contained in part 3160 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned the following Clearance Numbers:

OPERATING FORMS

Form No.	Name and filing date	OMB No.
3160–3	Application for Permit to Drill, Deepen, or Plug Back—Filed 30 days prior to planned action	1004–0136
3160–4	With Completion of Recompletion Report and Log—Due 30 days after well completion	1004–0137
3160–5	Sundry Notice and Reports on Wells—Subsequent report due 30 days after operations completed	1004–0135

The information will be used to manage Federal and Indian oil and gas leases. It will be used to allow evaluation of the technical, safety, and environmental factors involved with drilling and producing oil and gas on Federal and Indian oil and gas leases. Response is mandatory only if the operator elects to initiate drilling, completion, or subsequent operations on an oil and gas well, in accordance with 30 U.S.C. 181 *et seq.*

(2) Public reporting burden for this information is estimated to average 25 minutes per response for clearance number 1004–0135, 30 minutes per response for clearance number 1004–0136, and 1 hour per response for clearance number 1004–0137, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0135, 1004–0136, or 1004–0137, as appropriate, Washington, DC 20503.

(d) There are many leases and agreements currently in effect, and which will remain in effect, involving

both Federal and Indian oil and gas leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 221 or specific sections thereof, which has been redesignated as 43 CFR part 3160. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

§ 3164.1 [Amended]

4. Section 3164.1(b) is amended by revising the second entry of the table to read as follows:

Order No.	Subject	Effective Date	Federal Register reference	Supersedes
*	*	*	*	*
2	Drilling operations Amended	December 19, 1988	53 FR 46798	None.
*	*	*	*	*

Note.—Numbers will be assigned by the Washington Office, Bureau of Land Management, to additional Orders as they are prepared for publication and added to this table.

Note.—These amendments to the appendix published at 53 FR 46804. Nov. 18, 1988, for information only and will not appear in the Code of Federal Regulations.

Appendix—Text of Oil and Gas Order No. 2 [Amended]

5. Article II.V. is revised to read as follows:

* * * * *

V. Tagging the Plug means running in the hole with a string of tubing or drill pipe and placing sufficient weight on the plug to insure its integrity. Other methods of tagging the plug may be approved by the authorized officer.

6. Article III.A.2.b.ii. is amended by adding the following sentence at the end of the first paragraph thereof:

ii. * * * The configuration of the chokes may vary.

7. Article III.A.2.c. is amended by revising the third sentence of paragraph ii. and the second sentence of paragraph iii. thereof to read as follows, respectively:

ii. * * * The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level of the reservoir shall be maintained at the manufacturer's recommendations. * * *

* * * * *

iii. * * * The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level of the reservoir shall be maintained at the manufacturer's recommendations. * * *

8. Article III.B.1.a. is amended by adding at the end of the first paragraph thereof and before the paragraph "Violation: Major" the following sentence:

a. * * * All casing, except the conductor casing, shall be new or reconditioned and tested casing. All casing shall meet or exceed API standards for new casing. The use of reconditioned and tested used casing shall be subject to approval by the authorized officer; approval will be contingent upon the wall thickness of any such casing being verified to be at least 87½ percent of the nominal wall thickness of new casing.

9. Article III.B.1.f. is amended by revising the first paragraph thereof to read:

f. Surface casing shall have centralizers on the bottom 3 joints of the casing (a minimum of 1 centralizer per joint, starting with the shoe joint). * * *

10. Article III.C.6.b. is revised to read as follows:

b. Hydrogen sulfide safety and monitoring equipment requirements may be found in Onshore Oil and Gas Order No. 6—Hydrogen Sulfide Operations.

[FR Doc. 92-1763 Filed 1-24-92; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket 92-03]

Rules of Practice and Procedure; Special Docket Applications

AGENCY: Federal Maritime Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The Commission is amending its rules regarding the processing of special docket applications to authorize the Secretary of the commission to assign such applications to Special Docket Officers for review and initial decision. The Secretary will retain discretion to assign particular applications to the Office of Administrative Law Judges as appropriate. This change will relieve much of the current workload burden experienced by the Office of Administrative Law Judges and allow the Commission to better utilize its limited resources.

DATES: Interim rule effective upon publication in the **Federal Register**; comments must be received on or before February 26, 1992.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC, 20573-0001.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Rule 92 (46 CFR 502.92) of the Commission's Rules of Practice and Procedure contains regulations outlining the procedures for the filing and processing of special docket applications. Such applications may be filed by a common carrier or shipper for permission to refund or waive collection of a portion of freight charges where it appears that there is an error in the carrier's tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff. Under current Commission practice all such applications are referred by the Secretary of the Commission to the Commission's Office of Administrative Law Judges ("OALJ") for review and for issuance of an initial decision.

The number of special docket applications filed with the Commission has increased dramatically over the last year. This increase has occurred at a time when the number of formal docket proceedings assigned to OALJ also has increased significantly. These increases have created a significant workload burden for OALJ. In an effort to reduce this workload burden and to better utilize staff resources the Commission has determined to transfer the principal responsibility for review of special dockets to the Office of the Secretary of the Commission. Under this procedure the Secretary will have the authority to assign special docket applications to Special Dockets Officers, who will review each application and issue an initial determination, as the ALJs do currently. The process for filing of exceptions and/or review of initial determinations by the Commission will continue. The Secretary also will be given the discretion to continue to refer particular applications to OALJ for disposition when deemed appropriate.

Such discretion might be exercised, for example, when the application involves unique or complex legal issues.

Special Docket Officers to whom applications are assigned will be experienced Commission personnel, including at the outset the Commission's Assistant Secretary and the Director of the Office of Informal Inquiries, Complaints and Informal Dockets. Other personnel also will be utilized for this function. Transfer of the special docket function in this fashion will place this activity in a posture similar to the processing of service contract correction applications under 46 CFR 581.7, the responsibility for which has recently been delegated to the Director, Bureau of Tariffs, Certification and Licensing. This reassignment will not result in any change in the quality and carefulness of review of special docket applications.

A related change regarding the number of copies of special docket applications required to be filed is included in this document. The number is reduced from an original and three to an original and one.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

The proposed rule does not contain information collection requirements within the meaning of the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3501, *et seq.*, as implemented by regulations prescribed within 5 CFR part 1320. Accordingly, OMB approval of the proposed rule is not required.

Inasmuch as the implementation of this transfer of functions involves a change in agency organization, procedure and practice and addresses a current workload problem it is being implemented without either prior notice and opportunity for comment or delayed effective date, pursuant to the exceptions in 5 U.S.C. 553 (b) and (d). Although the rule is being effectuated immediately, it is published as an interim rule with opportunity for comment by interested persons.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

PART 502—[AMENDED]

Part 502 of title 46, Code of Federal Regulations is amended as follows:

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; and E.O. 11222 of May 8, 1965 (30 FR 6469).

2. In § 502.92 paragraph (c) is revised to read as follows:

§ 502.92 Special docket applications and fee.

* * * * *

(c) Applications under paragraphs (a) and (b) of this section shall be submitted in an original and one (1) copy to the Office of the Secretary, Federal Maritime Commission, Washington, DC 20573–0001. Each application shall be acknowledged with a reference to the assigned docket number and referred for decision, either to a Special Dockets Officer or to the Office of Administrative Law Judges, at the discretion of the Secretary. The deciding official may, in his or her discretion, require the submission of additional information. Formal proceedings as described in other rules of this part need not be conducted. The deciding official shall issue an initial determination to which the provisions of § 502.227 shall be applicable. If the application is granted, the initial determination or, as may otherwise be applicable, the final decision of the Commission shall describe the content of the appropriate notice if required to be published, and shall designate the tariff in which it is to appear, or other steps that are required to be taken which give notice of the rate on which such refund or waiver is to be based. [Rule 92].

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–1890 Filed 1–24–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90–358; FCC 91–400]

Establishment of standards for conducting comparative renewal proceedings in the Domestic Public Cellular Radio Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rulemaking proceeding establishes standards for conducting comparative renewal proceedings in the Domestic Public Cellular Radio Telecommunications Service (cellular radio service). Currently there are no specific rules governing the conduct of comparative cellular renewal proceedings. The new rules create: (1) Criteria for comparing a cellular radio renewal applicant and any challengers; (2) basic qualifications standards for challengers; and (3) procedures for preventing possible abuses of the comparative renewal process.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mobile Services Division, Common Carrier Bureau (202) 632–6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 90–358, adopted December 12, 1991, and released January 9, 1992.

The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this notice may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Paperwork Reduction

Public reporting burden for the collections of information is estimated as follows:

	No. of applicants	x	Hrs. per response	=	Total burden
Section 22.917(g)	20		2		40
Section 22.940	20		2		40
Section 22.941	20		10		200
Section 22.943	10		1		10
Section 22.944	10		1		10
Section 22.945	10		1		10
Total					310

Total Annual Burden: 310.

Frequency of Response: On occasion.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Information Resources Branch, room 416, Paperwork Reduction Project (3060–0457), Washington, DC. 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0457), Washington, DC 20503.

Summary of Report and Order

1. The Report and Order establishes standards for conducting comparative renewal proceedings between an applicant seeking renewal of its license in the Domestic Cellular Radio Telecommunications Service (cellular radio service) and challengers filing competing applications. The Report and Order provides criteria for granting renewal expectancies in the cellular radio service for the past performance of licenses. The Commission will grant a renewal expectancy to a licensee which (1) has substantially used its spectrum for its intended purpose; (2) has substantially complied with applicable Commission rules, policies and the Communications Act and (3) has not otherwise engaged in substantial relevant misconduct. A renewal expectancy would be more significant than any other preference awarded in comparative renewal proceedings.

2. The Report and Order also adopts certain criteria for comparing applicants in a cellular renewal proceeding. Thus, applicants would be compared with respect to (1) the areas and population to be served and the applicant's ability to meet the demand for cellular service; (2) the applicants' expansion proposals; (3) the nature and extent of the applicants' service proposals and (4) their experience in the cellular industry or other business of comparable type and size.

3. Given the Commission's continued concern over the filing of speculative applications for the cellular service, the Report and Order imposes strict basic qualifications requirements on challenging applicants to protect the integrity of the renewal process and the public from having to accept service from unqualified licensees. Thus, applicants filing applications which would compete with renewal applications are required to submit information, at the time they file their initial applications, to demonstrate the availability of their proposed transmitter-antenna sites and to demonstrate their financial qualifications.

4. The Report and Order imposes additional rules to prevent abuse of the comparative cellular renewal process by speculative applicants and petitioners who seek primarily to obtain payments from incumbent licensees. Thus, the Report and Order incorporates into the cellular renewal process the restrictions on payments made to petitioners, would-be petitioners and competing applicants which the Commission has previously adopted for comparative broadcast proceedings. An applicant filing a competing application against a cellular renewal application could only receive payment for withdrawing its application if it withdrew after the Initial Decision stage of the hearing and any payments would be limited to the legitimate and prudent expenses incurred in preparing, filing and prosecuting its application.

5. Further, to insure continuity of service and discourage speculators who would seek to acquire cellular licenses in cellular renewal proceedings for the purpose of selling them at a high price soon after acquisition, the Report and Order provides that if a challenger obtains a cellular authorization in a comparative renewal proceeding, the new licensee cannot sell its cellular system until it has operated the system for three years.

6. Lastly, the Report and Order adopts procedures which should streamline any comparative renewal proceedings which might occur. If the Commission determines, prior to designating any applications for a comparative renewal hearing, that a renewal applicant has made a *prima facie* case for a renewal expectancy, the hearing designation order will award the licensee a rebuttable presumption that the licensee is due a renewal expectancy.

Ordering Clauses

Accordingly, *It is ordered,* pursuant to sections 1, 4(i), 4(j) and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 154(j) and 303(r), That part 22 is amended as set forth below, effective February 26, 1992.

List of Subjects in 47 CFR Part 22

Communications common carriers, Domestic public cellular radio telecommunications service.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 22 of title 47 of the Code of Federal Regulations is amended as follows:

PART 22 [AMENDED]

1. The authority citation for part 22 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

2. Section 22.28 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 22.28 Dismissal and return of applications.

(a) Except as provided under §§ 22.29 and 22.943 (Dismissal of applications in renewal proceedings), any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to designation for hearing. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the

provisions of Section 22.29 as appropriate.

(b) Subject to the provisions of § 22.943 (Dismissal of applications in renewal proceedings), a request to dismiss an application without prejudice will be considered after designation for hearing only if:

* * * * *

3. Section 22.29 is amended by revising the introductory portion of paragraph (a) to read as follows:

§ 22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) *Applicability.* Subject to the provisions of § 22.943 (Dismissal of applications in renewal proceedings), § 22.944 (Dismissal of petitions to deny in renewal proceedings), and § 22.945 (Threats to file petitions to deny or informal objections in renewal proceedings), this section applies to applicants and all other parties interested in pending applications who wish to resolve contested matters among themselves with a formal or an informal agreement or understanding. This section applies only when the agreement or understanding will result in:

* * * * *

4. Section 22.31 is amended by adding new paragraph (j) to read as follows:

§ 22.31 Mutually exclusive applications.

* * * * *

(j) Notwithstanding other provisions of this section, an application shall be entitled to comparative consideration with a cellular renewal application only if it is filed within the period specified in § 22.11(b) for the filing of cellular renewal applications and clearly indicates the call sign and frequency block of such renewal applicant.

5. Section 22.32 is amended by revising paragraph (e)(5) and adding new paragraph (e)(6) to read as follows:

§ 22.32 Consideration of applications.

* * * * *

(e) * * *

(5) Except as provided under paragraph (e)(6) of this section and § 22.942 (Procedures for comparative renewal proceedings), in the Domestic Public Cellular Radio Telecommunications Service the application is entitled to comparative consideration (pursuant to § 22.31) with another application (or applications); in such cases the hearing shall conform to the comparative evaluation procedure described in § 22.916.

(6) In the Domestic Public Cellular Radio Telecommunications Service, the application is entitled to comparative consideration (pursuant to § 22.31) with another application (or applications) in a comparative renewal proceeding; in such cases, the hearing shall conform to the comparative evaluation procedure described in § 22.942.

* * * * *

6. Section 22.40 is amended by revising paragraph (b) to read as follows:

§ 22.40 Considerations involving transfer or assignment applications.

* * * * *

(b) *Cellular systems.*

(1) Except in cases where paragraph (b)(2) of this section applies, the sale of a cellular construction permit will only be permitted after a showing that the transferor is not speculating in cellular licenses. The burden of proof is on the transferor. See also § 22.920.

(2) In situations where the first construction authorization or first license for a particular cellular system was awarded as the result of a comparative renewal proceeding, an assignment or transfer of control application will not be entertained for that cellular system for a period of three years from the date that service was initiated except if:

(i) The cellular system is to be transferred as part of a bona fide sale of an on-going business to which the cellular operation is incidental;

(ii) The transfer of control of a cellular system is required because of the death of the licensee; or

(iii) The transfer of control of a cellular system is *pro forma* and does not involve a change of ownership.

* * * * *

7. Section 22.917 is amended by adding new paragraph (g) to read as follows:

§ 22.917 Demonstration of financial qualifications.

* * * * *

(g) *Comparative Renewal Proceedings.* An applicant filing a competing application against the renewal application of an incumbent cellular licensee shall demonstrate, at the time it files its application, that it has either:

(1) A firm financial commitment, an irrevocable letter of credit or performance bond in the amount of its realistic and prudent estimated costs of construction and any other expenses to be incurred during the first year of operating its proposed system (the irrevocable letter of credit or performance bond must be from the type of financial institution described in paragraph (g)(4) of this section) or

(2) Available resources, as defined in paragraph (g)(5) of this section, necessary to construct and operate its proposed cellular system for one year.

(3) The firm financial commitment may be contingent on the applicant obtaining a construction permit. The applicant must also list all of its realistic and prudent estimated costs of construction and any other expenses to be incurred during the first year of operating its proposed system.

(4) The firm financial commitment required above shall be obtained from a state or federally chartered bank or savings and loan association, another recognized financial institution, or the financial arm of a capital equipment supplier; shall specify the terms of the loan or other form of credit arrangement, including the amount to be borrowed, the interest to be paid, the amount of the commitment fee and the fact that it has been paid, the terms of repayment and any collateral required; and shall contain a statement:

(i) That the lender has examined the financial condition of the applicant including audited financial statements where applicable, and has determined that the applicant is creditworthy;

(ii) That the lender has examined the financial viability of the proposal for which the applicant intends to use the commitment;

(iii) That the lender is committed to providing a sum certain to the particular applicant;

(iv) That the lender's willingness to enter into the commitment is based solely on its relationship with the applicant; and

(v) That the commitment is not in any way guaranteed by an entity other than the applicant.

(5) Applicants intending to rely on personal or internal resources must submit—

(i) Audited financial statements certified within one year of the date of the cellular application, indicating the availability of sufficient net current assets to construct and operate the proposed cellular system for one year;

(ii) A balance sheet current within 60 days of the date of filing its application that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed cellular system for one year; and

(iii) A certification by the applicant or an officer of the applicant organization attesting to the validity of the unaudited balance sheet.

(6) Applicants intending to rely upon financing obtained through a parent corporation must submit the information

required by paragraph (g)(5) of this section, as the information pertains to the parent corporation.

(7) As an alternative to relying upon a firm financial commitment, an irrevocable letter of credit, or a performance bond from a financial institution as described in paragraph (g)(4) of this section, an applicant may state that it has placed in an escrow account sufficient cash to meet its construction and first-year operating expenses. Such a statement must specify the amount of cash, the escrow account number, and the financial institution where the escrow account is located.

(8) A competing application filed against the renewal application of an incumbent cellular licensee which does not demonstrate, at the time it is initially filed, that the competing applicant has sufficient funds to construct and operate for one year its proposed cellular system shall be dismissed as unacceptable for filing.

8. Section 22.940 is added to read as follows:

§ 22.940 Basic qualifications standards for applicants filing competing applications against cellular renewal applications.

(a) In addition to the other requirements set forth in part 22 for applications for initial cellular systems, an applicant filing a competing application against a cellular renewal application must provide, at the time it files its initial application, appropriate documentation demonstrating that its proposed antenna-transmitter site(s) will be available. Competing applications which do not include such documentation will be dismissed as unacceptable for filing. If the competing applicant does not own a particular site, it must, at a minimum, demonstrate that the site is available to him by providing a letter from the owner of the proposed antenna-transmitter site expressing the owner's intent to sell or lease the proposed site to the applicant. If any proposed antenna-transmitter site is under U.S. Government control, the applicant must submit written confirmation of the site's availability from the appropriate Government agency.

(b) Applicants which file competing applications against incumbent cellular licensees may not assume that an incumbent licensee's transmitter sites are available for their use.

9. Section 22.941 is added to read as follows:

§ 22.941 Criteria for comparative cellular renewal proceedings.

(a) A cellular renewal applicant involved in a comparative renewal proceeding shall receive a preference, commonly referred to as a renewal expectancy, which is the most important comparative factor to be considered in the proceeding, if its past record for the relevant license period demonstrates that the renewal applicant:

(1) Has substantially used its spectrum for its intended purpose;

(2) Has substantially complied with applicable Commission rules, policies and the Communications Act; and

(3) Has not otherwise engaged in substantial relevant misconduct.

(b) In order to establish its right to a renewal expectancy, a cellular renewal applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing shall include the following:

(1) A description of its current service area in terms of geographic coverage and population served, as well as the system's ability to accommodate the needs of roamers;

(2) An explanation of its record of expansion, including a timetable of the construction of new cell sites to meet changes in demand for cellular radio service;

(3) A description of its investments in its cellular system; and

(4) Copies of all Commission orders finding the licensee to have violated the Communications Act or any Commission rule or policy; copies of any orders finding the licensee to be guilty of relevant non-FCC misconduct, including misconduct constituting a felony, fraudulent misrepresentations to governmental units, criminal misconduct involving false statements or dishonesty, or antitrust or anticompetitive violations involving communications services; and a list of any pending proceedings that relate to any matter described above.

(c) In making its showing of entitlement to a renewal expectancy, a renewal applicant may claim credit for any system modification applications which were pending on the date it filed its renewal application. Such credit will not be allowed if the modification application is dismissed or denied.

(d) The following additional comparative issues will be included in comparative renewal proceedings:

(1) To determine on a comparative basis the geographic areas and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed Cellular Geographic Service Area (CGSA) in order to meet anticipated increasing demand for local and roamer service;

(3) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);

(4) To determine on a comparative basis each applicant's past performance in the cellular industry or another business of comparable type and size.

(e) With respect to evidence introduced pursuant to § 22.941(d)(3) of this section, an applicant filing a competing application against a cellular radio renewal applicant (competing applicant) who claims a preference for offering any service not currently offered by the incumbent licensee must demonstrate demand for that new service and also present a business plan showing that the competing applicant can operate the system economically. A competing applicant who proposes to replace analog technology with digital technology will receive no credit for its proposal unless it submits a business plan showing how it will operate its system economically and how it will provide more comprehensive service than does the incumbent licensee with existing and implemented cellular technology.

(f) The ultimate issue in comparative renewal proceedings will be to determine, in light of the evidence adduced in this proceeding, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

10. Section 22.942 is added to read as follows:

§ 22.942 Procedures for comparative renewal proceedings.

The following expedited hearing procedures shall apply to comparative renewal proceedings in the Domestic Public Cellular Radio Telecommunications service:

(a) An applicant for construction authority who files an application which is mutually exclusive with an application for renewal of a cellular radio system license must file its affirmative direct case, including all documentary evidence upon which the applicant intends to rely in a comparative context, with its initial

application. Each exhibit should be numbered and include the sponsoring witness affidavit. An original and four copies of the direct case must be filed: An original and two copies for the Mobile Services Division, Common Carrier Bureau and two copies for the Office of Administrative Law Judges. The burden will be on each applicant to obtain copies of its mutually exclusive opponent's exhibits in a timely manner, either from the opponents or by duplicating the Commission's copies. We expect all parties to cooperate in making available materials to each other upon request.

(b) Within thirty (30) days of the issuance of the Public Notice announcing the filing of a renewal application and applications competing with that renewal application, the renewal applicant must file its complete affirmative direct case, including its showing demonstrating any entitlement to a renewal expectancy. Four copies of the direct case must be filed with the Commission and a copy served on each other party to the proceeding.

(c) Interested parties have thirty (30) days from the date that the renewal applicant submits its direct case to submit petitions to deny that application. Applicants have fifteen (15) days to file replies; no further pleadings will be accepted.

(d) If, prior to a comparative renewal hearing, it appears that a renewal applicant's showing concerning its entitlement to a renewal expectancy meets the standards set forth in § 22.941(a) of the rules, the Commission will award a rebuttable presumption that the licensee is entitled to a renewal expectancy in its order designating the licensee and any competing applicants for a comparative hearing. If such a presumption is awarded, the applicants competing with the renewal applicant will have the burden of persuasion on the issue of the licensee's entitlement to a renewal expectancy in the comparative hearing.

(e) Parties have ten days after publication in the **Federal Register** of the hearing designation order to file notices of appearance.

(f) Rebuttal cases must be filed within thirty (30) days of the date of publication in the **Federal Register** of the order designating the applications for hearing. Four copies of the rebuttal case must be filed with the Commission and a copy served on each other party to the proceeding.

(g) The expedited hearing procedures delineated in §§ 22.916(b)(5) through (b)(8) of our rules shall be utilized in comparative cellular radio renewal proceedings.

11. Section 22.943 is added to read as follows:

§ 22.943 Dismissal of applications in renewal proceedings.

(a) Any applicant for construction authority, that has filed an application that is mutually exclusive with an application for the renewal of a license of a cellular radio system (hereinafter "competing applicant") and seeks to dismiss or withdraw its application and thereby remove a conflict between applications pending before the Commission, must obtain the approval of the Commission.

(b) If a competing applicant seeks to dismiss or withdraw its application prior to the Initial Decision stage of the hearing on its application, it must submit to the Commission a request for approval of the dismissal or withdrawal of its application, a copy of any written agreement related to the dismissal or withdrawal of its application, and an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has received or will receive any money or other consideration in exchange for dismissing or withdrawing its application:

(2) A statement that its application was not filed for the purpose of reaching or carrying out an agreement with any other applicant regarding the dismissal or withdrawal of its application; and

(3) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

(4) In addition, within 5 days of the filing date of the applicant's request for approval, each remaining competing applicant and the renewal applicant must submit an affidavit setting forth:

(i) A certification that neither the applicant nor its principals has paid or will pay any money or other consideration in exchange for the dismissal of its application; and

(ii) The terms of any oral agreement relating to the dismissal or withdrawal of the application.

(c) If a competing applicant seeks to dismiss or withdraw its application after the Initial Decision stage of the hearing on its application, it must submit to the Commission a request for approval of the dismissal or withdrawal of its application, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has received or will receive any money or other consideration in excess of the legitimate and prudent expenses of the applicant;

(2) The exact nature and amount of any consideration paid or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement;

(4) A statement that its application was not filed for the purpose of reaching or carrying out an agreement with any other applicant regarding the dismissal or withdrawal of its application; and

(5) The terms of any oral agreement relating to the dismissal or withdrawal of its application;

(6) In addition, within 5 days of the filing date of the applicant's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth;

(i) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the withdrawing applicant in exchange for the dismissal or withdrawal of the application; and

(ii) The terms of any oral agreement relating to the dismissal or withdrawal of the application.

(d) For the purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) An application shall be deemed to be pending before the Commission from the time an application is filed with Commission until an order of the Commission granting, denying, or dismissing the application is no longer subject to reconsideration by the Commission or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by an applicant in preparing, filing, and prosecuting its application.

(4) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

12. Section 22.944 is added to read as follows:

§ 22.944 Dismissal of petitions to deny in renewal proceedings.

(a) Whenever a petition to deny has been filed against any application for the renewal of a license for a cellular radio system or against an application for construction authority that is mutually exclusive with a renewal application, and the petitioner seeks to dismiss or withdraw the petition to deny, either unilaterally or in exchange

for financial consideration, the petitioner must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the petitioner nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the dismissal or withdrawal of the petition to deny;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the dismissal or withdrawal of the petition to deny.

(5) In addition, within 5 days of the filing date of the petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth;

(i) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for dismissing or withdrawing the petition to deny; and

(ii) The terms of any oral agreement relating to the dismissal or withdrawal of the petition to deny.

(b) For the purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) A petition shall be deemed to be pending before the Commission from the time a petition is filed with Commission until an order of the Commission granting, denying, or dismissing the petition is no longer subject to reconsideration by the Commission or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by a petitioner in preparing, filing, and prosecuting its petition for which reimbursement is being sought.

(4) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

13. Section 22.945 is added to read as follows:

§ 22.945 Threats to file petitions to deny or informal objections in renewal proceedings.

(a) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny or an informal objection against any application for the renewal of a license for a cellular radio system or against an application for construction authority that is mutually exclusive with a renewal application. For the purposes of this section, reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector incurred reasonably and directly in preparing to file a petition to deny will not be considered to be payment for refraining from filing a petition to deny or informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement nonfinancial promises are prohibited unless specifically approved by the Commission.

(b) Whenever any payment is made in exchange for withdrawing a threat to file or refraining from filing a petition to deny or informal objection, the applicant must file with the Commission a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) Certification that neither the would-be petitioner, nor any person or organization related to the would-be petitioner, has received or will receive any money or other consideration in connection with the agreement other than legitimate and prudent expenses reasonably incurred in preparing to file the petition to deny;

(2) The terms of any oral agreement;

(c) For purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the applicant, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) "Legitimate and prudent expenses" are those expenses reasonably incurred by a would-be petitioner in preparing to file its petition for which reimbursement is being sought.

(3) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

[FR Doc. 92-1691 Filed 1-24-92; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 57, No. 17
Monday, January 27, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing to redefine the Devils Postpile National Monument (DPNM) portion of Madera County, California, from the Fresno, California, wage area to the Reno, Nevada, wage area. Due largely to geographic features of the area, the northeastern portion of Madera County is economically oriented to the Reno area rather than to the Fresno area. The proposed change would place the DPNM portion of Madera County in the wage area to which it is better aligned.

DATES: Comments must be received on or before February 26, 1992.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Allan K. Summers, (202) 606–2848, or (FTS) 266–2848.

SUPPLEMENTARY INFORMATION: DPNM is located in Madera County, California, which is an area of application in the Fresno, California, wage area. Although Madera County is part of the Fresno wage area, the far eastern portion of Madera County around DPNM is isolated from the remainder of the County and the wage area by the Sierra Nevada mountain range. Roads to the west of DPNM through the mountains are tortuous and are frequently closed during the winter months. Shipping, entertainment, etc., are located a few miles east of DPNM in Mammoth Lakes, which is in Mono County, California, and area of application in the Reno, Nevada, wage area. DPNM and Mammoth Lakes are also near State Route 395, which runs north and south through the Owens Valley and provides easy access to Carson City and Reno.

Because of DPNM's isolation from the Fresno area and its economic orientation to Mono County and the Reno area, it appears that the employees at DPNM should be paid from the Reno wage schedule. The proposed regulations make DPNM an area of application within the Reno, Nevada, wage area. The proposal has the consensus support of the Federal Prevailing Rate Advisory Committee.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for 5 CFR part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; [6] 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

Appendix C to Subpart B [Amended]

2. In appendix C to subpart B, renumber footnotes 3 through 26 as 4 through 27, respectively, and add a new footnote 3 to the county of Madera, California, in the Fresno, California, wage area to read as follows:

[3] Does not include Devils Postpile National Monument portion.

Appendix C to Subpart B [Amended]

3. In appendix C to subpart B, renumber footnotes 16 through 27 as 17 through 28, and add the county of Madera, California, and footnote 16 to the wage area of Reno, Nevada, to read as follows:

Nevada

* * * * *

Reno

* * * * *

Area of Application. Survey area plus:

* * * * *

California:

* * * * *

Madera[16]

[16] Includes only the Devils Postpile National Monument portion.

[FR Doc. 92–1854 Filed 1–24–92; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[FV–91–462PR]

Almonds Grown in California; Changes to Administrative Rules and Regulations Concerning Eligible Charitable Outlets for Disposition of California Almonds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a revision to the administrative rules and regulations, established under the Federal marketing order for California almonds, which describe conditions under which handlers may receive credit against their assessments for distributing sample packets of almonds to charitable outlets. This change would eliminate controversy over what constitutes a charitable outlet for purposes of the Almond Marketing Order's creditable advertising program. The action is based on an unanimous recommendation of the Almond Board of California (Board), which is responsible for local administration of the order, and other available information..

DATES: Comments must be received by February 26, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments

must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 205–2830.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 981 (7 CFR part 981), both as amended, hereinafter referred to as the "order," regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 115 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action would revise § 981.441 of Subpart—Administrative Rules and Regulations and is based on an unanimous recommendation of the Board and other available information.

Section 981.41 of the order provides authority for crediting a handler's direct expenditures for advertising against such handler's assessment obligation. Section 981.441(d)(1)(i) of the rules and regulations allows handlers credit for distributing generic packages of almonds to charitable or educational outlets. Handlers must file claims with the Board in order to receive credit for the distribution of such sample packages.

However, there is no reference or guideline as to what is considered a charitable outlet. In the past, Board policy has been to use those charitable organizations listed in the Internal Revenue Service Code, section 170(c) as a guideline in evaluating advertising claims.

At its December 5, 1991, meeting the Board recommended amending § 981.441 of the Administrative Rules and Regulations to specify that charitable outlets for which handlers may receive credit for distributing generic almond packets must be those charities listed in section 170(c) of the Internal Revenue Service Code. This action is expected to eliminate controversy over what constitutes a charitable outlet as it pertains to § 981.441(d)(1)(i) of the creditable advertising program. This action is not expected to impose any additional burden or costs on handlers.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 981.441 is amended by revising the first sentence and adding a new sentence after the revised first sentence to read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(d) * * *

(1) * * *

(i) For the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets. Charitable outlets must be listed in section 170(c) of the Internal Revenue Service Code. * * *

* * * * *

Dated: January 17, 1992.

Robert C. Kenney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–1792 Filed 1–24–92; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–95–AD]

Airworthiness Directives; Piper Models PA–23, PA–23–150, and PA–23–160 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede AD 90–23–18, which required new preflight fuel system drainage procedures and required fuel system modifications on certain Piper PA–23 series airplanes until its effectiveness was suspended on December 13, 1990. Since its suspension, the Federal Aviation Administration (FAA) has issued an advance notice of proposed rulemaking (ANPRM) to seek comments from interested persons regarding the best action (if any) to be taken to correct potential water-in-the-fuel problems. The FAA has subsequently determined that the preflight fuel system drainage procedures required by AD 90–23–18 on the Piper Models PA–23, PA–23–150, and PA–23–160 airplanes are necessary if a new dual fuel drain has not been installed, but that the modifications should not be mandatory. The actions specified by the proposed AD are intended to prevent rough engine operation or complete power interruption caused by water contamination in the fuel.

DATES: Comments must be received on or before April 8, 1992.

ADDRESSES: Information that is related to this AD may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–95–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Will H. Trammell, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–95–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

There have been 14 accidents since 1975 involving certain Piper PA–23 series airplanes where it was believed that water in the fuel caused engine stoppage on the affected airplanes. The FAA determined that it is possible to trap fluid, specifically water, in excess of the capacity of the fuel strainer because of a low spot in the aft inboard corner of the main fuel tanks.

A National Transportation Safety Board (NTSB) safety recommendation pertaining to the water-in-the-fuel problem on certain Piper PA–23 series airplanes prompted the FAA to more fully evaluate this condition and take rulemaking action. A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on June 4, 1990 (55 FR 22802). The proposed AD would have provided new preflight fuel system drainage procedures on Piper Models PA–23, PA–23–150, and PA–23–160 airplanes and would have required fuel system modifications on Piper 23 series airplanes in accordance with Piper Service Bulletin (SB) No. 827A, dated November 4, 1988, and Piper SB No. 932, dated January 12, 1990.

Interested persons were afforded an opportunity to participate in the making of the amendment. Four comments were received on the proposed AD. The FAA evaluated each of the comments and determined that final AD action should be taken. Airworthiness Directive (AD) 90–23–18, Amendment 39–6782, was published in the **Federal Register** on November 7, 1990 (55 FR 46787) with an effective date of December 10, 1990. After issuing AD 90–23–18, the FAA discovered that there was an error in the AD in that it required both the installation of the dual fuel drain kits and a revised fuel system draining procedure in accordance with Piper SB No. 827A. The AD should only have required one of these two actions. In addition, the Aircraft Owners and Pilots Association (AOPA) petitioned the FAA to withdraw the fuel system modifications requirement from AD 90–23–18 because, in its judgment (and that of many of the airplane owners), the water-in-the-fuel problem was caused by poor maintenance rather than an inadequate design. From the evidence presented by the owners and the AOPA, the probable cause of large quantities of water entering the fuel cells is because of poorly maintained fuel filler caps and doors. The FAA has previously addressed this problem through AD 88–21–07 R1.

The FAA re-examined its position on this AD and suspended the effectiveness of AD 90–23–18 on December 13, 1990 (55 FR 51276). After this suspension, over 50 comments from the owners of Piper PA–23 series airplanes were received. The FAA issued an advance notice of proposed rulemaking (ANPRM) on April 24, 1991 (56 FR 18788), to provide an opportunity for the general public to participate in the decision whether to initiate further rulemaking. There were 188 responses to the ANPRM with the vast majority coming from the owners and operators of PA–23 series airplanes. Experience with the PA–23 series airplanes of the operators who responded ranged from 6 months to 38 years, with an average of approximately 12 years. A majority of the commenters feel that parts of AD 90–23–18 are unjustified and the AD should be removed or replaced. These commenters state that good preflight fuel draining procedures and maintenance are required to minimize water in the fuel. A synopsis of the comment is available by contracting the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–19–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

After careful review of the comments and all available information, the FAA has determined that the preflight fuel draining procedures that were required by suspended AD 90–23–18, Amendment 39–6782, on Piper Models PA–23, PA–23–150, and PA–23–160 airplanes and maintenance of the fuel caps and doors that is required by AD 88–21–07 R1, Amendment 39–6272 (54 FR 30719, July 24, 1989) on Piper PA–23 series airplanes will prevent water-in-the fuel problems. The FAA has determined that the modification requirements of suspended AD 90–23–18, Amendment 39–6782, are not necessary. The FAA has also determined that the preflight fuel draining procedures on the Piper Models PA–23, PA–23–150, and PA–23–160 airplanes should not be required if the airplanes have been modified by the installation of a dual fuel drain kit, part number 765–363, in accordance with the instructions of Part II of Piper SB No. 827A, dated March 4, 1988.

Since the condition described above is likely to exist or develop in other Piper Models PA–23, PA–23–150, and PA–23–160 airplanes of the same type design that have not been modified by the installation of a dual fuel drain kit, part number 765–363, the proposed AD would retain the preflight fuel draining procedures that were required by suspended AD 90–23–18. The proposed action would supersede AD 90–23–18 and would not include the fuel system modifications requirement that was part of that AD.

The FAA has no way of determining how many Piper Models PA–23, PA–23–150, and PA–23–160 airplanes have been modified by the installation of a dual drain kit, part number 765–363. The following cost information is based on none of the fleet having these kits installed. It is estimated that 1,107 airplanes in the U.S. registry would be

affected by the proposed AD, that it would take approximately .5 hours (at the most) per airplane to incorporate the preflight draining procedures into the Owner Handbook and Pilots Operating Manual, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $30,442.50.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 90–23–18, Amendment 39–6782 (55 FR 46787, November 7, 1990), and adding the following new AD:

Piper: Docket No. 91–CE–95–AD.

Applicability: Models PA–23, PA–23–150, and PA–23–160 airplanes (serial numbers 23–1 through 23–2046) that have not been modified by the installation of a dual fuel drain kit, part number 765–363, in accordance with the instructions in Part II of Piper Service Bulletin No. 827A, dated November 8, 1988, certificated in any category.

Compliance: Required within the next 180 calendar days after the effective date of this AD unless already accomplished.

To prevent rough engine operation or complete power interruption caused by water contamination in the fuel, accomplish the following:

(a) Incorporate paragraphs 1 through 5 of the Aircraft Systems Operating Instructions that are contained in part I of Piper Service Bulletin (SB) No. 827A, dated November 4, 1988, into the Owner Handbook and Pilots Operating Manual.

Note: Paragraphs 6 and 7 of the Handling and Servicing instructions that are contained in part I of Piper SB No. 827A, dated November 4, 1988, are covered by AD 88–21–07 R1.

(b) Special flight permits may be issued in accordance with FAR 21 197 and 21 199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 90–23–18, Amendment 39–6782.

Issued in Kansas City, Missouri, on January 14, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–1862 Filed 1–24–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AF18

Standards for Collection, Compromise, Suspension, or Termination of Collection Efforts

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend 38 CFR 1.912a to implement procedures for involuntary offset from VA compensation or pension benefit payments under authority of 38 U.S.C. 5301(c) in order to recoup debts owed by VA beneficiaries to the military services. VA also proposes to amend current VA regulations in order to implement recent legislation which expands the authority delegated by the U.S. General Accounting Office (GAO) and the Department of Justice (DOJ) for VA compromise, suspension, and termination of debt collection activity.

DATES: Comments must be received on or before February 26, 1992.

ADDRESSES: Interested persons are invited to send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for inspection at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, (202) 233–3405.

SUPPLEMENTARY INFORMATION: Public Law 99–576, the "Veterans' Benefits Improvement & Health-Care Authorization Act of 1986", amended 38 U.S.C. 3101 to authorize offset from a veteran's VA compensation or pension benefit payments to recoup debts owed to the military services resulting from the veteran's participation in the Survivor Benefit Plan (SBP) or the Retired Serviceman's Family Protection Plan (RSFPP).

VA is proposing to amend § 1.912a in order to implement its authority under 38 U.S.C. 5301(c), to recoup, by offset from VA compensation or pension, debts owed to the military services resulting from the veteran's participation in the SBP or the RSFPP. The amended regulation sets forth the procedures for withholding VA compensation or pension benefits of veterans once the military service requests VA to offset the debt amount from the veteran's compensation or pension. The military service owed the debt by the veteran must first determine the amount of the indebtedness and certify to VA that the due process procedures of 31 U.S.C. 3716 have been afforded the veteran. The amended regulation implements the procedures agreed to between the military services and VA in which the military services will afford the veteran the legal rights required by section 5301(c). Consequently, the amended regulation clarifies that VA is not required under section 3101(c) to afford veterans any

further legal rights under 38 CFR 1.911 or 1.912a, before offset under the authority of section 5301(c) may occur.

Although 38 U.S.C. 5301(c) authorizes VA to offset the entire amount of monthly compensation or pension benefit payments until the outstanding debt owed to the military service is recouped, the amended regulation sets a maximum offset amount of 15% of the net monthly compensation or pension benefit payment.

The proposed amended regulation also corrects technical errors in the regulation. VA believes that its procedures, as set forth in the amended regulation, will result in the avoidance of unnecessary delay and administrative expense, as well as, guarantee the full protection of the indebted veteran's statutory rights.

38 CFR 1.930 currently states that VA may exercise authority to compromise a debt when the debt does not exceed $20,000, exclusive of interest and administrative costs. When the debt exceeds $20,000, exclusive of interest and administrative costs, the authority to accept a compromise offer rests solely with the Department of Justice (DOJ). However, DOJ approval is not required if VA wishes to reject a compromise offer on a debt in excess of $20,000. 38 CFR 1.957(a)(2) authorizes the Committees on Waivers and Compromises to consider compromise offers in accordance with the limitations set forth in § 1.930.

38 CFR 1.940 currently states that if, after deducting the amount of any partial payments or collections, a claim exceeds $20,000, exclusive of interest and administrative costs, then the authority to suspend or terminate further collection action rests solely with DOJ. Debts of $20,000 or less, after deducting the items discussed above, can be suspended or terminated by VA. Section 1.957(b) authorizes the field station Chief of Fiscal Activity to suspend or terminate collection in accordance with Section 1.940.

The VA authority for compromise, suspension, and termination of debt collection, found in 38 CFR 1.930, 1.940, and 1.957, comes directly from 31 U.S.C. 3711(a) and GAO/DOJ regulations, 4 CFR 103.1 and 104.1. Public Law 101–552 (November 15, 1990) recently amended 31 U.S.C. 3711(a)(2) by raising the dollar limit discussed above from $20,000 to $100,000 or such higher amount as the Attorney General may prescribe.

31 U.S.C. 3711(e), which was not amended by the legislation, states that federal agencies compromise, suspend, and terminate collection action under the authority of their own regulations and also under the authority of the standards set by the Attorney General and the Comptroller General. These standards, known as the Federal Claims Collection Standards (FCCS), are incorporated in the GAO/DOJ regulations (4 CFR chapter II, parts 101–105). Although GAO/DOJ have not revised their regulations to comply with this new legislation, VA General Counsel has determined that our regulations must be changed in order to comply with the legislation. Thus, VA proposes to amend 38 CFR 1.930, 1.940, and 1.957 to comply with the revision of 31 U.S.C. 3711(a)(2) and the mandate of 31 U.S.C. 3711(e).

The Secretary hereby certifies that these proposed amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed amended regulations are therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these proposed amended regulations primarily affect only individuals indebted to the U.S. Government as a result of participation in programs administered by the VA or military services.

These proposed regulations have also been reviewed under E.O. 12291, Federal Regulation, and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practice and procedures, Veterans.

Approved: December 24, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is proposed to be amended as set forth below:

PART 1—GENERAL

1. The authority citation for part 1 continues to read as follows:

Authority: Sections 1.910 to 1.921 issued under 38 U.S.C. 501.

2. In § 1.912a, paragraph (a) is revised, paragraph (d)(2) is removed, and paragraph (e) is added to read as follows:

§ 1.912a Collection by offset from VA benefit payments.

(a) *Authority and scope.* VA shall collect debts governed by section 1.911 of this part by offset against any current or future VA benefit payments to the debtor. Unless paragraphs (c) or (d) of this section apply, offset shall commence promptly after notification to the debtor as provided in paragraph (b) of this section. Certain military service debts shall be collected by offset against current or future compensation or pension benefit payments to the debtor under authority of 38 U.S.C. 5301(c), as provided in paragraph (e) of this section.

* * * * *

(e) *Offset of military service debts.* (1) In accordance with 38 U.S.C. 5301(c), VA shall collect by offset from any current or future compensation or pension benefits payable to a veteran under laws administered by VA, the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of 10 U.S.C. chapter 73.

(2) Offsets of a veteran's compensation or pension benefit payments to recoup indebtedness to the military services as described in paragraph (1) of this subsection shall only be made by VA when the military service owed the debt has:

(i) Determined the amount of the indebtedness of the veteran;

(ii) Certified to VA that due process in accordance with the procedures prescribed in 31 U.S.C. 3716 have been provided to the veteran; and

(iii) Requested collection of the total debt amount due.

(3) Offset from any compensation or pension benefits under the authority of 38 U.S.C. 5301(c) shall not exceed 15% of the net monthly compensation or pension benefit payment. The net monthly compensation or pension benefit payment is defined as the authorized monthly compensation or pension benefit payment less all current deductions.

(Authority: 38 U.S.C. 5301(c) & 5314)

3. Section 1.930 is revised to read as follows:

§ 1.930 Scope and application.

(a) The standards set forth in §§ 1.930 through 1.938 apply to the compromise of claims in accordance with 31 U.S.C. 3711. VA may exercise such compromise authority where the claim owed to VA does not exceed $100,000 exclusive of interest and other late payment charges. This $100,000 limit does not apply to debts which arise out of participation in

the loan program under Chapter 37 of title 38 of the United States Code. The Comptroller General or his/her designee may exercise compromise authority with respect to claims referred to the General Accounting Office (GAO). Only the Comptroller General or his/her designee may compromise a claim that arises out of an exception made by GAO on account of an accountable officer, including a claim against the payer, prior to its referral by GAO to the Department of Justice for litigation.

(b) When the claim exceeds $100,000, exclusive of interest and other late payment charges, the authority to accept a compromise offer rests solely with the Department of Justice. However, approval by the Department of Justice is not required if VA wishes to reject a compromise offer on a debt in excess of $100,000. If VA believes that the compromise offer on a debt in excess of $100,000 should be accepted, it shall refer the matter to the Department of Justice by using the Claims Collection Litigation Report (section 1.951). The referral should contain a written memorandum by the local Committee on Waivers and Compromises specifying the exact reason why it is believed that the compromise offer should be accepted. Both the Claims Collection Litigation Report and the Committee's memorandum should be sent to VA Central Office, Office of Financial Management, for subsequent referral to the Department of Justice.

(Authority: 31 U.S.C. 3711)

4. Section 1.936 is revised to read as follows:

§ 1.936 Settlement for a combination of reasons.

VA may compromise specific claims for any combination of reasons authorized by sections 1.930–1.938.

(Authority: 31 U.S.C. 3711)

5. Section 1.940, is revised to read as follows:

§ 1.940 Standards for suspending or terminating collection action-scope and application.

(a) The standards set forth in §§ 1.940 through 1.943 apply to the suspension and or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $100,000, exclusive of interest and other late payment charges, after deducting the amount of partial payments or collections, if any. VA may suspend or terminate collection action under §§ 1.940 through 1.943 with respect to claims for money or property arising out of the Department's activities prior to the referral of such claims to GAO or the Department of Justice for litigation. The Comptroller General may authorize such authority with respect to such claims referred to GAO by VA prior to their further referral to the Department of Justice for litigation.

(b) If after deducting the amount of any partial payments or collections, a claim exceeds $100,000, exclusive of interest and other late payment charges, then the authority to suspend or terminate collection action rests solely with the Department of Justice. If VA determines that suspension or termination is appropriate for such a debt, after evaluation in accordance with the standards set forth in §§ 1.941 and 1.942, then the matter shall be referred to the Department of Justice, using the Claims Collection Litigation Report (see § 1.951). The referral shall contain a written recommendation, which specifies the reasons why suspension or termination is advantageous to the government. If VA determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection regardless of the amount involved, without the concurrence of the Department of Justice. If VA decides not to suspend or terminate collection action on the claim, Justice Department approval is not required.

(Authority: 31 U.S.C. 3711)

6. In § 1.955, paragraphs (a)(1) and (d) and the authority citation at the end of the section are revised to read as follows:

§ 1.955 Regional Office Committees on Waivers and Compromises.

(a) *Delegation of authority and establishment.* (1) Sections 1.955 et seq. are issued to implement the authority for waiver consideration found in 38 U.S.C. 5302 and 5 U.S.C. 5584 and the compromise authority found in 38 U.S.C. 3720(a) and 31 U.S.C. 3711. The duties, delegations of authority, and all actions required of the Committees on Waivers and Compromises are to be accomplished under the direction of, and authority vested in, the Director of the regional office.

* * * * *

(d) *Overall control.* The Assistant Secretary for Finance and Information Resources Management (IRM) is delegated complete management authority, including planning, policy formulation, control, coordination, supervision, and evaluation of Committee operations.

* * * * *

(Authority: 38 U.S.C. 5302, 38 U.S.C. 3720(a), 5 U.S.C. 5584, and 31 U.S.C. 3711.)

7. In § 1.957, paragraphs (a)(2)(i), (ii) (A), (B), (C) and (D) and (b) (1) and (2) are revised to read as follows:

§ 1.957 Committee authority.

(a) * * *

(2) *Compromises.* (i) *Loan program debts* (38 U.S.C. 3720(a)). Accept or reject a compromise offer irrespective of the amount of the debt (loan program matters under 38 U.S.C. chapter 37 are unlimited as to amount).

(ii) Other than loan program debts (31 U.S.C. 3711).

(A) Accept or reject a compromise offer on a debt which exceeds $1,000 but which is not over $100,000 (both amounts exclusive of interest and other late payment charges).

(B) Accept or reject a compromise offer on a debt of a $1,000 or less, exclusive of interest and other late payment charges, which is not disposed of by the Chief, Fiscal activity, pursuant to paragraph (b) of this section.

(C) Reject a compromise offer on a debt which exceeds $100,000, exclusive of interest and other late payment charges.

(D) Recommend approval of a compromise offer on a debt which exceeds $100,000, exclusive of interest and other late payment charges. The authority to accept a compromise offer on such a debt rests solely within the jurisdiction of the Department of Justice. The Committee should evaluate a compromise offer on a debt in excess of $100,000, using the factors set forth in §§ 1.930 through 1.938. If the Committee believes that the compromise offer is advantageous to the government, then the Committee members shall so state this conclusion in a written memorandum of recommendation of approval to the Chairperson. This recommendation, along with a Claims Collection Litigation Report (CCLR) completed in accordance with § 1.951, will be referred to VA Central Office, Office of Financial Management (047F5), for submission to the Department of Justice for final approval.

(b) *Chief of Fiscal activity.* The Chief of the Fiscal activity at both VBA and VHA offices has the authority, as to debts within his/her jurisdiction, to:

(1) On other than loan program debts under 38 U.S.C. chapter 37, accept compromise offers of 50% or more of a total debt not in excess of $1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

(2) On other than loan program debts under 38 U.S.C. chapter 37, reject any offer of compromise of a total debt not

in excess of $1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

(Authority: 31 U.S.C. 3711 and 38 U.S.C. 3720(a)).

[FR Doc. 92-1734 Filed 1-24-92; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 165

[OPP-250088; FRL 4009-9]

Notification to the Secretary of Agriculture of a Proposed Regulation on Pesticide Management and Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation establishing procedures for mandatory and voluntary recall actions taken under section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This action is required by section 25(a)(2)(A) of FIFRA.

FOR FURTHER INFORMATION CONTACT: By mail: David Stangel, Office of Compliance Monitoring (EN-342W), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: (703) 308-8295.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, and if requested by the Secretary, the Administrator shall issue for publication in the **Federal Register** with the proposed regulation, the comments of the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

This notice announces that the EPA has forwarded a proposed regulation proposing procedures for mandatory and voluntary recall actions taken under section 19 of FIFRA. The proposed regulations establishes criteria for acceptable storage and disposal plans which registrants may submit to the Agency to become eligible for reimbursement of storage costs, and procedures for the indemnification of owners of suspended and cancelled pesticides authorized by section 15 of FIFRA..

As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

As required by FIFRA section 25(d), a copy of this proposed regulation has also been forwarded to the Scientific Advisory Panel.

Authority: 7 U.S.C. 136 et seq.

Dated: January 16, 1992.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 92-1896 Filed 1-24-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[CC Docket No. 91-360; FCC 91-402]

International Common Carrier Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On December 12, 1991, the Commission adopted a Notice of Proposed Rulemaking seeking comment on its proposal to modify its 1985 International Competitive Carrier decision regarding regulation of "foreign-owned" U.S. common carriers in their provision of international services. The current policy, which treats "foreign-owned" U.S. common carriers as dominant in their provision of all international services to all foreign markets, would be replaced by a policy that regulates U.S. international carriers, whether U.S.-or foreign-owned, as dominant only on those routes where their foreign affiliates have the ability to discriminate against non-affiliated U.S. international carriers in the provision of access to bottleneck facilities and services.

DATES: Comments are due on or before February 26, 1992 and replies are due on or before March 17, 1992.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen J. Collins, Assistant Director, Office of International Communications, (202) 632-0935, or Susan O' Connell, Attorney, Common Carrier Bureau, (202) 632-3214.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted December 12, 1991, and released January 10, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M St., NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st St., NW., Washington, DC 20036.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of the submission may be purchased from the Commission's current copy contractor, Downtown Copy Center, (202) 452-1422 1114 21st Street NW., Washington, DC 20036. Persons wishing to comment on this information collection should direct their comments to Jonas Neihardt, (202) 395-4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB Number: None.

Title: Regulation of International Common Carrier Services.

Action: Proposed Revision and New Collection.

Respondents: Business or other for profit (including small businesses).

Frequency of Response: On occasion and one time requirement.

Estimated Annual Burden: 355 total annual hours; 285 responses; 1.25 average hours per response.

Needs and Uses: The proposed rules would govern the regulation of U.S. international common carriers, and require such carriers to submit ownership information permitting the FCC to determine their proper regulatory status. The proposed rules would assist the FCC in ensuring fair treatment among U.S. carriers in foreign markets.

Summary of Notice of Proposed Rulemaking

The Notice of Proposed Rulemaking proposes to replace the current policy that treats "foreign-owned" U.S. common carriers as dominant in their

provision of all international services to all foreign markets with a policy that regulates U.S. international carriers, whether U.S.-or foreign-owned, as dominant only on those routes where their foreign affiliates have the ability to discriminate against non-affiliated U.S. international carriers in the provision of access to bottleneck facilities and services. In modifying the international competitive carrier policy with regard to "foreign-owned" U.S. carriers, the Commission does not at this time propose to change other components of the 1985 decision.

Since adoption of the 1985 policy U.S. carriers have been increasingly successful in obtaining operating agreements for international message telephone service (IMTS). Additionally, some foreign administrations have begun to privatize their telecommunications properties, to open telecommunications services markets to entry by new providers and to take other steps to make their markets more competitive for the provision of telecommunications services. As a result of these market changes the Commission tentatively concludes that the current foreign-owned carrier policy is no longer appropriate. Although the Commission remains concerned about the potential for preferential treatment that may be accorded U.S. carriers by their affiliates in foreign markets, it tentatively concludes that the current policy can be modified in light of the progress that has been made to date by U.S. carriers in obtaining operating agreements and of its desire to encourage further market openings in other countries.

The ability to inhibit U.S. carrier competition to any particular foreign market or to treat U.S. carriers inequitably primarily arises from the ability of the affiliated correspondent in that foreign market to discriminate against non-affiliated U.S. carriers in terms of operating agreements and access to bottleneck facilities. The current policy of encompassing routes where the affiliated correspondent may not have this ability results in unnecessary application of Commission regulation, particularly now when the concerns that caused the Commission to adopt the foreign-owned carrier policy in 1985 have been addressed in many markets.

Moreover, the Commission is encouraged by the progress made by U.S. companies in making significant telecommunications investments in other countries over the past several years. These investments also have resulted in U.S. companies acquiring control of bottleneck facilities in foreign markets. To the extent that the Commission remains concerned with the ability of a foreign affiliate to deny IMTS operating agreements to non-affiliated U.S. carriers and to discriminate against such carriers in the terms of access, these same concerns apply when a U.S.-owned company acquires foreign bottleneck facilities and also is affiliated with a U.S. carrier in its provision of international services from the United States.

Emphasis on Discriminatory Use of Bottleneck Facilities

The Commission tentatively concludes that traditional title II rate and entry regulation of U.S. international carriers is warranted only for those routes where the U.S. international carrier's affiliate has the ability to discriminate through control of bottleneck services or facilities in a foreign market. The Notice proposes a two-step test to identify "bottleneck services and facilities."

First, the Commission must identify the types of services and facilities that a U.S. international carrier's affiliate potentially could use to discriminate among competing U.S. carriers in the foreign market. The Commission proposes to include only those types of facilities and services that it regulates as common carriage in the United States and that also are used to deliver U.S. international traffic into a foreign market. This would include international services and facilities, up to and including the international switch, that are required to deliver U.S. international traffic into the foreign market. The Commission also requests comment whether to extend the definition of bottleneck facilities and services beyond the international switch.

Second, the Commission must identify the circumstances that would warrant the conclusion that a U.S. carrier's affiliate has bottleneck control in a foreign market, *i.e.*, market power in the provision of services and facilities that could be used to discriminate among competing U.S. international carriers. The Commission tentatively concludes that the definition of "bottleneck control" should include the existence of a legally protected monopoly or a monopoly in fact for the provision of the facilities and services identified in step 1. The Commission also believes it is appropriate to recognize the efficacy of regulatory policy in controlling the ability of a carrier to engage in discrimination through control of bottleneck facilities and services.

Therefore, the Commission proposes to place the burden on the U.S. affiliate of a foreign provider of telecommunications facilities and services to demonstrate that the foreign market for such services and facilities is open and competitive; that is, that the foreign provider does not have market power in the relevant market segment. Alternatively, it may demonstrate the existence of a legal and regulatory structure that effectively prevents discrimination against non-affiliated U.S. carriers.

The proposal applies to U.S. facilities-based and resale carriers alike.

The proposal would define an affiliate as any entity that controls, is controlled by, or is under common control with a provider of telecommunications services or facilities in a foreign market. Rather than relying on a specific ownership percentage benchmark to define control, the proposal would rely in the first instance on the submission of certifications and ownership information by applicants seeking carrier authorization under section 214. The certification and information would be required of each section 214 applicant under part 63 of the rules. The certification would state that the applicant is not affiliated with a provider of telecommunications services or facilities in the country to which it seeks to provide service. Any applicant unable to make such a certification would be regulated as dominant for U.S. international service to that country unless it could demonstrate in its application that its affiliate does not have the ability to discriminate through control of bottleneck facilities or services against non-affiliated U.S. international carriers. The associated information required of each applicant would be the name, address, citizenship and principal businesses of it principal stockholders or other equity holders and interlocking directorates.

As an alternative, the Commission also requests comment on whether the public interest requires considering levels of ownership that may constitute the substantial ability to influence the affairs of a company. Under this proposal, the Commission would require that applicants certify that 50 percent or more of their equity is not owned of record by or for the benefit of one or more providers of foreign telecommunications services or facilities.

The Commission also requests comment on whether, where the ownership or management interest of a telecommunications provider in a foreign market reaches a given level that may fall short of control, it should nonetheless require the carrier to demonstrate the provider does not have

the ability to discriminate in its home market against non-affiliated U.S. carriers, and whether the current 15 percent ownership benchmark should be raised to a more relevant standard for the concerns addressed in the Notice.

The Commission additionally seeks comment on the potential for a telecommunications provider to leverage its foreign market bottleneck into other markets where it has no bottleneck control.

Public Benefits

The Commission believes the modified policy is consistent with its overall goals of encouraging competition. It also would avoid the appearance of unequal treatment of foreign-owned carriers because dominant status on specific routes would not be based on the foreign ownership of the U.S. carrier but on the bottleneck control of the carrier's affiliate in the foreign market. To the extent that the policy would allow streamlined regulation on certain routes, the benefits of streamlining would redound to U.S. consumers. Noting the Economic Report of the President about the benefits engendered by the global production and trade networks of modern multinational corporations and the undesirability of policies aimed at restricting foreign investment, the Commission asks for comment on whether the proposed policy would be more conducive to foreign capital investment in U.S. industry that might be in the public interest.

Filing Requirements

The Commission proposes to amend part 63 of its rules to require each applicant for section 214 authority to provide international common carrier services to certify that it is not affiliated with a telecommunications facilities or service provider in the country to which it seeks to provide service, and to provide the name, address, citizenship and principal businesses of its principal stockholders or other equity holders, and any interlocking directorates. The Commission also proposes to amend part 43 of its rules to require all authorized U.S. international carriers affiliated with providers of telecommunications facilities and services in a foreign market to provide a list of such affiliations within ninety days of the release date of the Report and Order adopted in this proceeding. Also, the Commission proposes to require any authorized international carrier that subsequently becomes affiliated with a facilities or service provider in a foreign market to notify the Commission within 90 days of the transaction.

Ordering Clauses

Accordingly, *It is ordered* That *Notice is hereby given* of the proposed regulatory action described above, and that *Comment is sought* on these proposals.

For further information on this item contact Kathleen J. Collins, Assistant Director, Office of International Communications, (202) 632-0935, or Susan O'Connell, Attorney, Common Carrier Bureau, (202) 632-3214.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Parts 43 and 63

Communications common carriers.

Rule Changes

Title 47 CFR, parts 43 and 63, are proposed to be amended as follows:

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority for part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214.

2. Section 63.01 is amended by adding paragraph (r) to read as follows:

§ 63.01 Contents of applications.

* * * * *

(r) A certification that the applicant is not affiliated with a telecommunications provider in the countries to which it seeks to provide service, or a statement that the applicant is unable to make such a certification.

(1) The certification should state individually those countries in which the applicant does not have an affiliate.

(2) For purposes of this certification, an affiliated is any entity that controls, is controlled by, or is under common control with a provider of telecommunications services or facilities in a foreign market.

(3) In support of the required certification, each applicant shall also provide the name, address, citizenship and principal businesses of its principal shareholders or other equity holders and identify any interlocking directorates.

(4) Any applicant that cannot make the foregoing certification may provide information that demonstrates that its affiliate does not have the ability to discriminate against non-affiliated U.S. international carriers through control of bottleneck facilities and services in the foreign market as defined in the Report and Order in CC Docket No. 91-360 released _____.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.91 is added to read as follows:

§ 43.91 Reports of international carriers affiliated with telecommunications providers in foreign markets.

(a) Every carrier authorized under section 214 to provide international common carrier services that is affiliated with providers of telecommunications facilities and services in foreign markets shall file a list of such affiliations with the Secretary.

(b) Any carrier authorized under section 214 to provide international common carrier services that subsequently becomes affiliated with a telecommunications provider in a foreign market shall notify the Secretary within ninety (90) days of the transaction.

[FR Doc. 92-1813 Filed 1-24-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 911009-1252]

Engangered Fish and Wildlife; Gray Whale

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearing.

SUMMARY: NMFS announces the times, dates and locations for a public hearing under the Endangered Species Act (ESA) in order to receive comments from the general public on its proposal to remove the eastern North Pacific gray whale from the ESA's List of Endangered and Threatened Wildlife.

DATES: The public hearings are scheduled as follows;

1. February 14, 1992, 9:30 a.m.–4:30 p.m. Silver Spring, Maryland.

2. February 25, 1992, 6–10 p.m. Long Beach, California.

Written comments will be accepted through March 6, 1992.

ADDRESSES: The public hearings will be held in the following locations:

1. Silver Spring—Silver Spring Metro Center Building 2, Second Floor Conference Room, 1325 East-West Highway, Silver Spring, Maryland.

2. Long Beach—Ramada Renaissance Hotel, 111 East Ocean Blvd. Long Beach, California.

Comments should be mailed to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A copy of the 1991 Proposed Determination and Rule is available upon request from this same address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Karnella, NMFS, at (301) 713–2322 or Mr. James Lecky (310) 980–4015.

SUPPLEMENTARY INFORMATION: On November 22, 1991 (56 FR 58869), NMFS published a proposed determination that the eastern North Pacific (California) stock of gray whale should be removed from the ESA's List of Endangered and Threatened Wildlife. This proposed change is based on evidence that this stock has recovered to near its estimated original pre-commercial exploitation population size and is neither in danger of extinction throughout all or a significant portion of its range, nor likely to again become endangered within the foreseeable future throughout all or a significant portion of its range. NMFS believes that the western Pacific gray whale stock, which is geographically isolated from the eastern stock, has not recovered and should remain listed as endangered.

Section 4(a)(1) of the ESA and the NMFS' listing regulations (50 CFR part 424) set forth procedures for listing, reclassifying or removing species. The Secretary of either the Interior or Commerce depending upon the species involved, must determine through the regulatory process if any species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or man-made factors affecting its continued existence.

The ESA requires that a determination to list (or delist) a species as endangered or threatened be made solely on the basis of the best available scientific and commercial information concerning that species relative to the factors discussed above. For that reason, participants are requested to direct their comments to one or more of the above factors.

The meetings will be open to the public. Interested parties may present data, information, or views, orally or in writing, on the proposed determination. Oral statements may be limited in length if the number of parties present at the meetings necessitates such a limitation. There are however, no limits to the length of written comments or materials presented at the meetings or mailed to NMFS (see "**ADDRESSES**").

In the November 22, 1991, proposed rule, NMFS gave notice that the comment period would close on January 21, 1992. However, as a result of the public hearing, the comment period on the proposed rule has been extended until March 6, 1992 (see 57 FR 2247, January 21, 1992), in order to allow the public sufficient time to attend hearings and complete their written comments.

Dated: January 21, 1992.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 92–1828 Filed 1–24–92; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 17
Monday, January 27, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

OSI Implementors' Workshop; 1993 Meeting Dates

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The NIST announces four (4) workshop sessions to reach implementor agreements on Open Systems Interconnection (OSI) computer network protocols.

DATES: The 1993 meeting dates for the workshops have been established and are as follows:

March 8–12, 1993
June 7–11, 1993
September 13–17, 1993
December 6–10, 1993

The meetings will be hosted by NIST and current plans are to hold the meetings at Gaithersburg, Maryland.

ADDRESSES: To register for the workshops, companies may contact: OSI Workshop Series, Attn: Brenda Gray, National Institute of Standards and Technology, Building 225, room B–217, Gaithersburg, MD 20899, Telephone: (301) 975–3664.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant.

FOR FURTHER INFORMATION CONTACT: For technical questions contact, Tim Boland, (301) 975–3608.

SUPPLEMENTARY INFORMATION: The workshops will cover protocols in seven layers of the ISO Reference Model. A registration fee will be charged for attending the workshops. Participants are expected to make their own travel arrangements and accommodations. NIST reserves the right to cancel any part of the workshops.

Dated: January 21, 1992.
John W. Lyons,
Director.
[FR Doc. 92–1906 Filed 1–24–92; 8:45 am]
BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Conoco, Inc., From an Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Dismissal of appeal.

On July 5, 1988, the Secretary of Commerce received a notice of appeal from Conoco, Inc. (Appellant). The Appellant is appealing to the Secretary under sections 307(c)(3) (A) and (B) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the California Coastal Commission to the Appellant's consistency certification for its proposed Plan of Exploration (POE) and an individual National Pollutant Discharge Elimination System (NPDES) permit for OCS Lease P–0522. OCS Lease P–0522 is located approximately nine miles south of the City of Santa Barbara.

At the Appellant's request, the General Counsel for the National Oceanic and Atmospheric Administration (NOAA) granted a stay of the consistency appeal, which was not opposed by the State. The Appellant has now requested that the appeal be withdrawn. The State concurs with that request. The appeal has therefore been dismissed, with prejudice. The Appellant is barred from filing another appeal from California's objection to its original consistency certification.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., suite 603, Washington, DC 20235, (202) 606–4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: January 17, 1992.
Thomas A. Campbell,
General Counsel.
[FR Doc. 92–1891 Filed 1–24–92; 8:45 am]
BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured n Taiwan; Correction

January 22, 1992.

In the letter to the Commissioner of Customs published in the Federal Register on November 20, 1991 (56 FR 58558), make the following corrections in the table under "Twelve-month restraint limit" for Group I and Categories 619/620, respectively:

1. In the first column, first line, change 542,631,617 square meters equivalent to 539,839,180 square meters equivalent.

2. In the second column, second line, change 9,397,879 square meters to 11,973,169 square meters.

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 92–1904 Filed 1–24–92; 8:45 am]
BILLING CODE 3510–DR–F

Soliciting Public Comments on a Proposal for a New Outward Processing Program

January 21, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: The Chairman of CITA requests comments on a proposal for a new outward processing program for U.S. textiles which would be made into apparel in certain foreign countries.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

Agricultural Act of 1956, as amended (7 U.S.C. 1854).

At the request of the Office of the United States Trade Representative, the Committee for the Implementation of Textile Agreements (CITA) is seeking public comment on a new outward processing program.

As part of the President's Trade Enhancement Initiative for Central and Eastern Europe, certain countries have requested that the U.S. negotiate an outward processing program that would liberalize U.S. quota treatment of apparel made in Central and Eastern Europe from U.S. fabric. If the U.S. negotiates a new program, the U.S. will consider extending it to beneficiaries of the Caribbean Basin Initiative and the Andean Initiative.

CITA is considering allowing preferential quota access for apparel that has been cut and sewn abroad in beneficiary countries from U.S.-formed fabric when imported by U.S. apparel producers. This program would differ from the current Guaranteed Access Level program in that(a) cutting could be done in the beneficiary country and (b) the importer and exporter would have to be a U.S. apparel producer certified to participate in the program. A preferential quota access can be put into place administratively. A duty reduction for apparel which has been cut and sewn outside the Customs Territory of the United States would have to be established legislatively. The European Community has an outward processing program that allows apparel producers to export fabric from member countries to be cut and sewn into apparel in a non-European Community country and to reimport the finished product into the Community with a duty reduction and preferential quota access. The European Community's duty and quota program limits the percentage of goods which can be imported under the program by the apparel company, although the percentage varies substantially among the countries of the European Community.

Key elements for consideration include: (1) The definition of "U.S. apparel producer," related issues and any criteria for the amount to be imported under a preferential quota program; (2) administrative concerns related to implementation, i.e., how the program can be enforced without burdensome requirements; and (3) issues related to certification for this program.

Anyone who wishes to comment or provide information regarding this issue is invited to submit such comments or information in 10 copies to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC, 20230; ATTN: Helen L. LeGrande. Determations regarding specific aspects of the program will be made in the context of our trade relations with other nations.

Comments will be accepted for a period of 30 days from the date of this notice. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-1872 Filed 1-24-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures option contract.

SUMMARY: The New York Cotton Exchange (NYCE or Exchange) has applied for designation as a contract market in options on European currency unit (ecu) futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 26, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the European currency unit futures option contract.

FOR FURTHER INFORMATION CONTACT: Please contact Steve Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYCE in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any persons interested in submitting written data, views, or arguments on the terms and conditions of the proposed contract, or with respect to other materials submitted by the NYCE in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 22, 1992.

Gerald Gay,

Director.

[FR Doc. 92-1912 Filed 1-24-92; 8:45 am]

BILLING CODE 6351-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Agency Information Collection Activities Under OMB Review

AGENCY: Council on Environmental Quality (CEQ).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that a request for approval of information collection is being forwarded to the Office of Management and Budget. Because CEQ is requesting expedited review, this notice includes the specific data items being collected.

DATES: Comments must be submitted on or before February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ben Jarratt or Marla Donahue, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20503, Telephone: (202) 395–5750, Telefax: (202) 395–3745.

SUPPLEMENTARY INFORMATION: Executive Order No. 12761 (1991) established the President's Environment and Conservation Challenge Awards as an annual program to recognize outstanding environmental achievements by United States citizens, enterprises, or programs and to provide an incentive for environmental accomplishment. CEQ is responsible for administering the program.

Up to three Presidential medals may be awarded in each of four categories: Partnership, Environmental Quality Management, Innovation, and Education and Communications. In addition, up to 20 Presidential citations will be presented to finalists who demonstrate achievements in any of the four award categories.

CEQ has developed an application form for potential awardees to complete in order to be considered for a Presidential medal or a citation. This information collected from the application form is also included in a CEQ database of successful, private sector environmental programs. Because this application form seeks information from respondents, CEQ is required to obtain OMB approval and an OMB control number in accordance with the Paperwork Reduction Act.

Abstract: The application form requests information from applicants for the President's Environment and Conservation Challenge Award. Applicants must complete the form in order to be considered for the award. The application form will contain the following data elements—

General Information

(1) The award category for which the applicant is competing;

(2) The name of the project or program described in the application;

(3) The name, title, organization, and address of the award applicant(s);

(4) The name, title, organization, and address of the program contact person who can answer questions regarding the application;

(5) The length of time the technology, program, project, or service has been operational;

Award Criteria

(6) A description of how the applicant(s) meets the award criteria for the particular category

(A) Partnership: Awarded to diverse organizations or groups that have fostered cooperative approaches to environmental needs at the local, regional, or national level.

- Who are the partnership's members? What are their roles? What resources do they bring to the partnership?
- What are the partnership's specific environmental or conservation objectives? Has a sustainable plan of concerted action for meeting these needs been established?
- How is the partnership distinctive or innovative? What obstacles, environmental or otherwise, does it overcome?
- What measurable environmental or conservation benefits has the partnership produced?
- What aspects of the partnership can be modeled by others and transferred to other settings?

(B) Environmental Quality Management: Awarded to organizations which have demonstrated that environmental values can be integrated into sound management decisions and objectives. (Note: This category reflects broad-based organizational approaches. Special programs or projects may be more appropriate for entry in one of the other three award categories.)

- What are the organization's environmental policies and objectives?
- How has the organization's top management demonstrated commitment to these policies and objectives (beyond legal compliance)?
- What are the organization's environmental standards for its product(s) and operations? (Explain how they go beyond legal constraints and how they relate to management control mechanisms.)
- How are these policies and objectives incorporated in the: (1) Day-to-day management of the organization; (2) Organization's decision-making about research and development, long-range planning, capital, and operating budgets?
- How are these policies and objectives reflected in the organization's relationships with employees, customers, suppliers, and the general public?
- What are the organization's control mechanisms that give decision makers objective data to measure continuous performance improvement toward its short- and long-term objectives?
- What quantifiable, sustained environmental quality results in products and processes have resulted from the organization's environmental approach?

(C) Innovation—Awarded to individuals, organizations and groups who have demonstrated exceptional creativity or pioneered new approaches in the development and/or execution of technologies, programs, projects, or services that are environmentally sound and economically sensible?

- What is the purpose of the technology, program, project or service?
- How is the technology, program, project, or service distinctive or innovative? What obstacles, environmentally or otherwise, does it overcome?
- How is the technology, program, project, or service superior to other approaches? Does it offer a viable alternative to a problem for which no solutions previously existed?
- Can the technology, program, project or service be replicated in an economically feasible manner?
- What are the measurable, net long-term environmental benefits or results of the technology, program, project, or service?

(D) Education and Communication—Awarded to individuals, organizations, or groups which have developed educational or informational programs that inspire respect for the environment and raise the public's environmental literacy.

- What is the program? What are its environmental or conservation objectives?
- Who is the program's audience? How large is the audience? How is the program's effect on the audience determined?
- What is original or distinctive about the program?
- What are the measurable results or benefits produced by the program? How does the program promote the development of an environmental ethic and make a positive contribution to environmental awareness?
- How can the program be used or modeled by others?

(7) A 500-word summary which provides an overview of the application;

Information for Use in Database

(8) A description in checklist form of the applicant (e.g., national business or industry, regional or local business,

national nonprofit organization, educational organization, etc.);

(9) A description in checklist form of the type of business or industry, if applicable (e.g., agriculture, aerospace, communications, construction, electronics, etc.)

(10) A description in checklist form of the environmental program under consideration (e.g., agriculture, conservation, education, energy, environmental quality management, forestry, etc.)

(11) The sources of the program's support;

(12) A cost estimate to develop the program or project;

(13) The annual cost of the program or project;

(14) The primary audiences, beneficiaries, or users of the program or service, and estimated number of persons served; and

(15) Whether the program has been honored with other environmental or conservation awards in the past five years.

Burden Statement:

The public reporting burden for this collection of information is estimated to average 10 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the application.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: Anually (previous medal winners are ineligible for the award program for a period of five years).

Estimated Total Annual Burden on Respondents: 1,000 hours.

Expedited Review: An expedited request is made under the regulations implementing the Paperwork Reduction Act (5 CFR 1320.18). To meet the schedule for distributing the applications in mid-February; to allow respondents sufficient time to review, complete, and submit the application; and to allow CEQ's selection committee and the President adequate time to assess the merits of the applications before the awards ceremony in the fall, CEQ has requested OMB clearance by early February.

Comments: Comments regarding the burden estimate, or any other aspects of this collection of information, including suggestions for reducing the burden, to:

Ben Jarratt or Marla Donahue, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20503, Telephone: (202) 395-5750, Telefax: (202) 395-3745

and

Timothy G. Hunt, CEQ Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503

David B. Struhs,

Chief of Staff.

[FR Doc. 92-1973 Filed 1-24-92; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Hearings

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of schedule change for hearings.

SUMMARY: The Council of Chief State School Officers, under contract to the National Assessment Governing Board (NAGB), U.S. Department of Education, is announcing a change in its scheduling of one of four public hearings. The hearings have been conducted as part of the Council's contract for NAGB for the purpose of developing an assessment framework and specifications for the 1994 National Assessment of Educational Progress (NAEP) U.S. History Assessment Project. Public and private parties and organizations with an interest in the quality of U.S. history assessment and education are invited to present written and oral testimony to the Council.

Each hearing focuses on recommendations for the 1994 NAEP U.S. History Assessment to be conducted at grades 4, 8, and 12. The results of the hearings are particularly important because they will provide for broad public input in developing the U.S. history assessment framework to be used in the national NAEP in 1994. This assessment will likely be used to measure progress toward two of the National Education Goals, specifically those related to student achievement and history. These hearings are being conducted pursuant to Public Law 100-297, section 6(E), which states that "Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public."

DATES: The date of the fourth public hearing, previously set for April 2-5, 1992 in Chicago, Illinois, has been changed to February 3, 1992 in Atlanta, Georgia. The other hearings were held: November 14, 1991 in San Diego, California, November 23, 1991 in Washington, DC, and December 29, 1991 in Chicago, Illinois.

Persons desiring to present oral statements at the hearing shall submit a notice of intent to appear, postmarked no fewer than ten (10) days prior to the scheduled meeting date. The scheduling of oral presentations cannot be guaranteed for notices of intent received less than 10 days prior to the hearing.

Notices of Intent to present oral statements shall be mailed to: Council of Chief State School Officers, 379 Hall of the States, 400 North Capitol Street, NW., Washington, DC 20001-1511, Attn: Bonnie Verrico—Public Hearings.

Locations

For the exact location of the final public hearing, please contact Council offices at (202) 624-8822.

Written Statements

Written Statements may be submitted for the public record in lieu of oral testimony up to 30 days after the hearing. These statements should be sent directly to the Council (see aforementioned address) in the following format:

I. Issues and Questions Addressed

Testimony should respond to the following questions:

1. How should U.S. history be conceived (in the last decade of the 20th Century) for elementary, middle, and high school?

2. How should U.S. history be organized in elementary, middle, and high school? What is the rationale for that organization?

3. What content should be included in U.S. history in elementary, middle, and high school?

What should be the major topics and ideas? What kinds of student knowledge should be emphasized?

4. What U.S. history content, ways of thinking about history, and specialized analysis and research skills should be assessed? In structuring the assessment, what is the proper balance among factual knowledge, ways of thinking about history, and specialized analysis and research skills?

5. What assessment issues should be considered in developing specifications for the tests?

6. What kinds of assessment strategies could be used to assess student mastery and thinking beyond the recall level? What advanced

technologies should be incorporated in assessment strategies?

7. What are some examples of good recall and higher-level thinking multiple choice test items? How can multiple choice questions be used to measure historical knowledge and thinking beyond the recall level?

II. Summary

Briefly summarize the major points and recommendations presented in the testimony.

III. Discussion

The narrative should provide information, points of view and recommendations that will enable the council to consider all factors relevant to the question(s) the testimony addresses. Respondents are encouraged to limit this section of their written statements to five (5) pages. The discussions may be appended with documents of any length providing further explanation.

Written statements presented at each hearing will be accepted and incorporated into the public record. All written statements should follow the above format, as much as it is possible.

Hearings Objectives and Procedures

The Council seeks participation in the hearings from a broad spectrum of individuals and organizations in the sharing of opinions and recommendations regarding U.S. history proficiencies, knowledge, and those skills and strategies to be assessed at grade levels 4, 8, and 12. The list of speakers shall, on the one hand, provide a wide range of viewpoints and interests, but also be organized to respect the time constraints of the hearing schedule.

The goal of the hearings is to provide the medium for maximum input and guidance from teachers, curriculum specialists, local school administrators, parents and concerned members of the general public. Following a brief introduction to the project by the Council of Chief State School Officers, the majority of the session will be devoted to presentations by scheduled speakers.

As listed in the "Dates" section above, speakers wishing to present statements shall file notices of intent. To assist the Council in appropriately scheduling speakers, the written notice of intent to present oral testimony should include the following information:

(1) Name, address and telephone number of each person to appear;

(2) Affiliation (if any);

(3) A brief statement of the issues and/or concerns that will be addressed; and

(4) Whether a written statement will be submitted for the record.

Individuals who do not register in advance will be permitted to register and speak at the meeting in order of registration, if time permits. Speakers should plan to limit their total remarks to no more than five (5) minutes. While it is anticipated that all persons will have an opportunity to speak, time limits may not allow this to occur. The Council will make the final determination on selection and scheduling of speakers.

All written statements presented at the hearings will be accepted and incorporated into the public record. Written statements submitted in lieu of oral testimony should be received no later than 30 days after each hearing in order to be included in the public record. However, while written statement received after this date will be accepted, inclusion in the public record cannot be guaranteed.

A staff member from the council of Chief State School Officers will preside at each of the four hearings. The proceedings will be audiotaped. The hearings will also be signed for the hearing-impaired and a bilingual speaker (Spanish-English) will be available at some sites.

Additional Information

Additional information is available from the Council offices for anyone wishing to obtain more specifics on the assessment project. The 1988 NAEP U.S. History Objectives, a draft framework outline for the 1994 assessment, and draft assessment guidelines will be made available to interested parties. Individuals wanting additional information on a specific hearing should contact Council offices at (202) 624-8822.

Steps After Hearing

The Council will review and analyze all comments and opinions received in response to this announcement. A report of the outcomes of these hearings will be made available to the public upon request after September 1992.

The results of this public testimony, along with the Council's U.S. History Consensus committee work, will be used to formulate recommendations on the 1994 NAEP U.S. History Assessment for the National Assessment Governing Board. The Board, charged with developing the assessment framework and specifications, will take final action on the Council's recommendations in the fall of 1992. The following documents will be forthcoming from these coordinated activities:

(1) A framework for the 1994 U.S. history assessment—including objectives to guide the 1994 assessment, specifications for the test content, and item specifications.

(2) Background variables and achievement data will be collected which culminate in a description of our nation's students, teachers and schools. These variables should stress factors presently known to be consistently associated with history achievement, factors that address distributional or equity issues, and matters of particular importance to policymakers.

(3) Recommendations and examples of the format to be used to report assessment and background data in history.

(4) A final report describing the consensus process.

A record of all Council proceedings will be kept at the Council of Chief State School Officers until September 1992 and at the National Assessment Governing Board following that date, and will be available for public inspection at that time.

Dated: January 22, 1992.

Diane Ravitch,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 92-1857 Filed 1-24-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Plans To Prepare an Environmental Assessment for Nonnuclear Consolidation Within the Nuclear Weapons Complex

AGENCY: Department of Energy.

ACTION: Notice of plans to prepare an environmental assessment for nonnuclear consolidation within the nuclear weapons complex.

SUMMARY: The Department of Energy (DOE) announces its plans to prepare an environmental assessment (EA) on its proposal to consolidate certain nonnuclear facilities in the nuclear weapons complex. This will allow DOE to accelerate the proposed consolidation of nonnuclear facilities in response to Presidential initiatives to reduce the Nation's nuclear weapons stockpile. The DOE sites involved in the nonnuclear consolidation proposal are the Kansas City Plant in Kansas City, Missouri; the Mound Plant in Miamisburg, Ohio; the Pantex Plant near Amarillo, Texas; the Pinellas Plant in Largo, Florida; the Rocky Flats Plant in Golden, Colorado;

Sandia National Laboratories in Albuquerque, New Mexico; the Savannah River Site near Aiken, South Carolina; and the Y-12 Plant near Oak Ridge, Tennessee. DOE proposes to consolidate certain nonnuclear activities at the Kansas City Plant, relocate others to the Pantex, Savannah River, Y-12 and Albuquerque sites, and phase out nonnuclear manufacturing activities at the Mound, Pinellas, and Rocky Flats plants. The proposed action was included in the broader DOE programmatic proposal to reconfigure the weapons complex to be smaller, less diverse, and more efficient to operate; DOE is preparing a programmatic environmental impact statement (PEIS) on the reconfiguration proposal. DOE has determined that the proposal to consolidate nonnuclear facilities can be analyzed in an EA prior to completion of the Reconfiguration PEIS.

DATES: DOE plans to complete the EA by the end of fiscal year 1992 (October 1992).

FOR FURTHER INFORMATION CONTACT: Requests for further information on the DOE nuclear weapons complex reconfiguration program should be directed to: Howard R. Canter, Deputy Assistant Secretary, Weapons Complex Reconfiguration Office, DP-40, room 4C-014, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2700.

SUPPLEMENTARY INFORMATION:

Nonnuclear Consolidation Proposal

DOE proposes to consolidate certain nonnuclear elements of the complex at one location, to relocate other nonnuclear aspects, and to phase out the weapons mission at certain locations. Specifically, DOE proposes to do the following:

- Collocate tritium activities now done at the Mound and Pinellas plants with the tritium activities now done at the Savannah River Site; all of these tritium activities would be done at the existing Replacement Tritium Facility at the Savannah River Site.
- Collocate high explosives work now done at the Mound Plant with the high explosives work now done at the Pantex Plant, which would result in a very small addition to the amount of high explosives already used at Pantex.
- Collocate the beryllium work now done at the Rocky Flats Plant with similar machining work now done at the Y-12 Plant.
- Relocate the manufacture of neutron generators from the Pinellas Plant to be collocated with Sandia National Laboratories at Albuquerque, where they are now designed.
- Retain the pit support functions now done at the Rocky Flats Plant with the pit fabrication work now done at Rocky Flats Plant, wherever this fabrication work will be located as a result of the Reconfiguration Record of Decision (ROD).
- Consolidate the remaining nonnuclear activities now done at the Mound, Pinellas, and Rocky Flats plants at the Kansas City Plant.
- Phase out the weapons mission at the Mound and Pinellas plants, together with certain nonnuclear work at the Rocky Flats Plant, and turn over the government-owned, contractor-operated weapons facilities at these locations to the DOE Office of Environmental Restoration and Waste Management for cleanup, restoration, or decontamination and decommissioning as appropriate.

In addition, DOE is now evaluating whether or not certain developmental work now done at the nonnuclear manufacturing sites should be reassigned to one or more of the DOE national laboratories. If DOE decides to pursue this option, it may become part of the proposed action for the nonnuclear consolidation EA.

The purpose of the proposed action is to effect better management of nonnuclear manufacturing activities within the complex, and to decrease the long-term operating costs of this aspect of the complex. Consolidation is preferred as soon as possible in order to achieve desired cost savings while maintaining the skill and technology base within the weapons complex. The products and services produced by this element of the complex are needed to manufacture nuclear weapons and test individual components. Although some of these components involve small amounts of tritium, these activities are collectively referred to as the nonnuclear functional element of the complex because they do not involve the production of nuclear materials, nor the manufacture of principal weapons components from uranium, plutonium, or tritium.

Many nonnuclear weapons components are manufactured and supplied by the private sector. This proposal does not include components currently manufactured by the private sector. Where practical and cost effective, DOE may transfer the manufacture of some additional selected products to the private sector under existing procurement procedures.

The Rocky Flats Plant currently performs some nonnuclear manufacturing work with depleted uranium. This work is not part of this proposal because it is scheduled to be phased out prior to consolidation.

DOE will analyze four alternatives to the proposed action in the EA: the "no action" alternative, consolidation at Mound, consolidation at Pinellas, and consolidation at Rocky Flats. For each of these alternatives, the functions now performed at the alternative consolidation site would not be relocated. If transferred, the tritium, high explosives, and beryllium work, and the manufacture of neutron generators, would be collocated as in the preferred alternative. Some beryllium work is now done at the Y-12 Plant; under a Rocky Flats consolidation alternative the Y-12 beryllium work would not be collocated with the Rocky Flats beryllium work because it is considered to be integral to other Y-12 operations which are not part of this proposal. The remainder of the nonnuclear activities, including those now performed at the Kansas City Plant, would be relocated to the alternative consolidation site.

Relationship to Reconfiguration PEIS

On February 11, 1991, DOE published a Notice of Intent (NOI) to prepare a PEIS on its proposal to reconfigure its existing nuclear weapons complex to create Complex-21: a smaller, less diverse, more effective complex at the present sites, or at relocated or consolidated sites [56 FR 5590]. The NOI made reference to the nonnuclear manufacturing function of the weapons complex, and indicated that the Secretary's preferred reconfiguration alternative would include maximizing consolidation of the nonnuclear manufacturing facilities with the goal of having only one dedicated nonnuclear manufacturing site within the reconfigured complex. DOE conducted a PEIS public scoping period from February 11, 1991, to September 30, 1991, and held fifteen public scoping meetings including meetings near each of the sites affected by the nonnuclear consolidation proposal. DOE received numerous public comments regarding nonnuclear manufacturing activities and other weapons complex activities at these sites. The PEIS is being prepared pursuant to the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500-1508), and DOE Guidelines for compliance with NEPA (52 FR 47662), as amended (54 FR 12474 and 55 FR 37174).

On September 27, 1991, the President announced his initiative to continue to reduce the nuclear weapons stockpile. The Secretary has determined that this announcement provides an opportunity

to accelerate nonnuclear consolidation without impacting national defense or the remainder of the reconfiguration program. To help achieve early decisions regarding consolidation, the Secretary has decided to conduct the environmental analysis of nonnuclear consolidation separately from the programmatic review of the remainder of the complex.

DOE believes that the NEPA review of the nonnuclear consolidation proposal can be separated from the Reconfiguration PEIS because consolidating nonnuclear manufacturing is not expected to result in significant environmental impacts and any decision regarding nonnuclear consolidation would neither affect nor be affected by other reconfiguration decisions which may be made in the Reconfiguration ROD.

Accordingly, DOE will analyze nonnuclear consolidation aspects of Complex-21 in an EA prior to completion of the PEIS. If the EA analysis supports a finding of no significant impact (FONSI), DOE plans to proceed with nonnuclear consolidation and incorporate the nonnuclear consolidation decisions into the PEIS analysis as actions common to all alternatives. If the EA does not support a FONSI, then the assessment of environmental impacts for consolidating nonnuclear functions will be incorporated into the Reconfiguration PEIS and no actions would be taken to consolidate the nonnuclear manufacturing activities unless they were included in the Reconfiguration ROD.

This Notice concerns only nonnuclear consolidation activities and sites which will be analyzed in the separate EA. The possibility of consolidating or relocating other mission elements will be examined in the PEIS. The Reconfiguration PEIS will continue to analyze other weapons mission elements at the Pantex Plant, the Rocky Flats Plant, Sandia National Laboratories, the Savannah River Site, and the Y-12 Plant, as discussed in the Reconfiguration NOI and subsequent **Federal Register** notices related to the Reconfiguration effort.

When completed, the EA and its related FONSI will be placed in the fourteen DOE public reading rooms established for the Reconfiguration PEIS.

Issued in Washington, DC, this 21st day of January, 1992.

Richard A. Claytor,

Assistant Secretary, Defense Programs.

[FR Doc. 92-1892 Filed 1-24-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. IS92-3-000, IS92-4-000, IS92-5-000, IS92-6-000, IS92-7-000, IS92-8-000, IS92-9-000, OR92-2-000]

ARCO Alaska, Inc. v. Amerada Hess Pipeline Corp., et al.; Notice of Complaint

January 17, 1992.

Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, Unocal Pipeline Company.

Take notice that on December 19, 1991, ARCO Alaska, Inc., pursuant to Rules 206, 211, 212, and 1403 of the Commission's Rules of Practice and Procedure (18 CFR 385.206, 385.211, 385.212, and 385.1403 (1991)) and sections 13(1), 15(1), and 15(7) of the Interstate Commerce Act (49 U.S.C. 13(1), 15(1) and 15(7)), filed a complaint concerning each of the captioned tariff filings. In its complaint, ARCO Alaska alleges that the current methodology used by the Trans Alaska Pipeline System (TAPS) to calculate the Pumpability Factor has no cost basis and imposes a punitive and unjustified surcharge on the shippers of heavier petroleum.

Complainant states that this surcharge is based on the estimates of the effects of the different petroleum streams on TAPS capacity, not operating costs. Complainant alleges that this methodology has no justification when, as at present, TAPS is not capacity constrained and transportation of tendered volumes of heavier petroleum has no effect on the ability of TAPS to transport tendered volumes of lighter petroleum. Therefore, complainant alleges, the current methodology is unjust and unreasonable in violation of section 1(15) of the Interstate Commerce Act and creates an undue preference against heavier petroleum in violation of section 3(1) of the Interstate Commerce Act.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before February 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint also shall be due on or before February 18, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1850 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-111-017]

East Tennessee Natural Gas Co.; Correction to Prior Filings

January 17, 1992.

Take notice that on January 9, 1992, East Tennessee Natural Gas Company (East Tennessee), filed with the Federal Energy Regulatory Commission a letter stating that in its filing made on December 18, 1992, East Tennessee filed Substitute Thirteenth Revised Sheet Nos. 4 and 5 which were designed to reflect the impact of the November 21, 1991 motion rates in Docket No. RP90-111 on East Tennessee's filing in Docket No. TA92-1-2 to be effective January 1, 1992.

East Tennessee's states that it has come to its attention that Substitute Thirteenth Revised Sheet Nos. 4 and 5 reflected incorrect purchase gas demand rates due to the use of incorrect jurisdictional D-1 billing determinants effective November 1, 1991 for CD customers.

East Tennessee states that it is submitting for filing Substitute Fourteenth Revised Sheets Nos. 4 and 5 which reflect the appropriate level of demand billing determinants in the purchase gas demand rates. East Tennessee notes that because the SG rate is derived from the CD rates, the SG rate has also changed. East Tennessee also submits Attachment A attached to the filing in support of the corrected billing determinants.

East Tennessee notes that in addition, the December 18, 1991 filing included Third Revised Sheet Nos. 6 and 7 which reflected a change to the GRI charge which was inadvertently omitted from East Tennessee's filing in Docket No. TA92-1-1. East Tennessee states that Third Revised Sheet Nos. 6 and 7 incorrectly listed First Revised Volume No. 1A as the FERC Gas Tariff volume to which they belong. East Tennessee notes that the correct volume is Original Volume No. 1A. East Tennessee states that it is resubmitting for filing Substitute Third Revised Sheet Nos. 6 and 7 which reflect the correct FERC Gas Tariff Volume.

East Tennessee states that copies of the filing has been served upon all authorized purchasers of natural gas from East Tennessee and all interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1844 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2327-002-New Hampshire

James River—New Hampshire Electric, Inc.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

January 17, 1992.

The license for the Cascade Project No. 2327, located on the Androscoggin River in Coos County, New Hampshire expires on December 31, 1993. The statutory deadline for filing an application for new license was December 31, 1991. On July 21, 1988, a competing license application was filed by Alpine Hydroelectric Company for the Alpine Project No. 9713-001. The application for new license and competing license application have been filed as follows:

Project No.	Applicant	Contact
P-2327-002	James River—New Hampshire Electric, Inc.	David Dunham, 650 Main Street, Berlin, NH 03570-2489, (603) 752-4600.
P-9713-001	Alpine Hydroelectric Company.	Harold Turner, P.O. Box 7191, Concord, NH 03301, (603) 497-3940.

The following is an approximate schedule and procedures that will be followed in processing these applications:

Date	Action
Jan. 30, 1989	Commission issued public notice of the accepted application of the competitor establishing dates for filing motions to intervene and protests.
Apr. 10, 1989	Commission issued public notice of the accepted application establishing dates for filing motions to intervene and protests.
Mar. 31, 1992	Commission's deadline for applicant for filing a final amendment, if any, to its application.
May 15, 1992	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in responses to the public notices, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Ed Lee at (202) 219-2809.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1846 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2366-001 & 2367-001—Maine]

Maine Public Service Co., Notice Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

January 17, 1992.

The license for the Aroostook Project No will include the existing Millinocket Lake Storage Dam Project No. 2366 (expires June 30, 1992) and the existing Caribou Hydro Project No. 2367, located on the Aroostook River and Millinocket Stream, in Piscataquis and Aroostook Counties, Maine, and will expire on December 31, 1993. The statutory deadline for filing an application for new license was December 31, 1991. An application for license has been filed as follows:

Project No.	Applicant	Contact
P-2366-001 and 2367-001.	Maine Public Service Company.	Calvin D. Deschene, 209 State Street, P.O. Box 1209, Presque Isle, ME 04769, (207) 768-5811.

The following is an approximate schedule and procedures that will be followed in processing these applications:

Date	Action
Aug. 26, 1991	Commission notified applicant that its application has been accepted. The notification of acceptance will specify the need for additional information and the date information is due.
Sept. 19, 1991	Commission issued public notice of the accepted application establishing dates for filing motions to intervene and protests.
Feb. 26, 1992	Commission's deadline for applicant to file additional information.
Mar. 10, 1992	Commission's deadline for applicant for filing a final amendment, if any, to its application.
Mar. 31, 1992	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in responses to the public notices, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Ed Lee at (202) 219-2809.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1847 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-004]

Tennessee Gas Pipeline Co.; Tariff Filing

January 17, 1992.

Take notice that on January 14, 1992, Tennessee Gas Pipeline Company (Tennessee) filed the following tariff sheet to Third Revised Volume No. 1 of its FERC Gas Tariff to be effective February 1, 1992:

Third Revised Volume No. 1

First Revised First Revised Sheet No. 30

Tennessee states that the purpose of the tariff filing is to correct Tennessee's inadvertent failure to file with its rate filing of August 1, 1991 in Docket No. RP91-203 a tariff sheet setting forth increased Rate Schedule NET-EU rates.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1849 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-119-007]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

January 17, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 10, 1992, tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with a proposed effective date of April 16, 1991:

2nd Sub First Revised Sheet No. 222
Sub Second Revised Sheet No. 223

Texas Eastern states that the filing is being made in compliance with the Commission's Order on Rehearing and Compliance Filings issued December 27, 1991. Texas Eastern states that the order addresses, *inter alia*, Texas Eastern's October 31, 1991 and November 15, 1991 filings made in compliance with the Commission's October 1, 1991 and November 1, 1991 orders, respectively, in these dockets. By this filing, Texas Eastern states that it is revising and clarifying Rate Schedule ISS-1.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers, interested state commissions. Texas Eastern also states that copies of the filing have also been served on all parties in Docket No. RP91-119 and to all parties on the restricted service list in Docket Nos. RP88-67, *et al.*, (Phase I).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before January 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1845 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-6-29-000]

Transcontinental Gas Pipe Line Corporation; Proposed Changes in FERC Gas Tariff

January 17, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 10, 1992, certain revised tariff sheets to Third Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS (2) storage services purchased from Penn-York Energy Corporation (Penn-York) under its Rate Schedule SS-1 the costs of which are included in the rates and charges payable under Transco's Rate Schedules LSS and SS-2 and (3) transportation services purchased from CNG under its Rate Schedule X-74 the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT-NT. The tracking filing is being made pursuant to section 4 of Transco's Rate Schedule LSS, section 4 of Transco's Rate Schedule SS-2 and section 4 of Transco's Rate Schedule FT-NT.

Included in appendices B through E attached to the filing are explanations of the tracking rate changes and details regarding the computation of the revised LSS, SS-2 and FT-NT rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS, SS-2 and FT-NT rate changes proposed therein into subsequent intervening rate filings which have been accepted or are currently pending Commission acceptance on the effective dates reflected thereon.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1848 Filed 1-24-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of December 9 Through December 13, 1991

During the week of December 9 through December 13, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

INEL Research Bureau, 12/11/91, LFA-0164

The INEL Research Bureau filed a Freedom of Information Act Appeal of a fee waiver determination issued by the Department of Energy's (DOE) Idaho Operations Office (Idaho). Idaho denied the fee waiver request, finding that the information released pursuant to the underlying FOIA request would not contribute significantly to the public understanding of the operations or activities of the government. In considering that Appeal, the DOE found that there were other factors which must be examined in considering a fee waiver request. The DOE concluded that Idaho did not adequately justify the rationale for withholding the requested information under the FOIA and DOE regulations. Accordingly, the matter was remanded to Idaho, which was directed to make new determinations regarding the fee waiver request.

Refund Applications

Atlantic Richfield Company/Petrolane, Inc., 12/11/91, RF304-4259

The DOE issued a Decision and Order concerning an Application for Refund filed by Petrolane, Inc., in the ARCO Subpart V special refund proceeding. In its Application, Petrolane requested a full volumetric refund for its purchases of 186,074,805 gallons of ARCO propane based on a showing of injury. The DOE found that although overall, Petrolane paid less than the average market price for the propane it purchased from ARCO during the refund period, it was still injured to a certain degree in the months in which it paid more than the market average prices. Accordingly, the amount of refund was limited to the percentage of the total gallons purchased at above market prices (47.71%) multiplied by the per gallon refund volumetric amount, or $65,251 (plus interest of $32,956).

B.J. McAdams Trucking, 12/9/91, RF272-74249, RD272-74249

The Department of Energy issued a Decision and Order concerning the Application for Refund filed by B.J. McAdams Trucking for a refund from crude oil monies available for disbursement by the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) pursuant to 10 CFR part 205, subpart V. The applicant purchased refined petroleum products for use in its trucking operations. However, the firm did not provide a sufficient explanation of the method by which it calculated its purchase estimate. Despite repeated requests by OHA, the firm failed to submit corroborative data. Accordingly, the Application for Refund was denied and a Motion for Discovery filed by a group of States was dismissed.

Texaco Inc./Robert E. Way, 12/10/91, RF321-18084

The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Decision and Order granting a refund of $10,000 plus interest to Robert E. Way, based on his purchases of 10,181,108 gallons of Texaco refined petroleum products as a consignee and petroleum jobber. The OHA subsequently received a submission from the National Association of Texaco Wholesalers (NATW), on behalf of Way Oil Company (currently owned by John and Susan Van Allen). In support of its position that Way Oil Company is entitled to the refund, the NATW submitted notarized instruments of conveyance showing a sale of all of the stock of Way Oil Company from Robert E. and Marguerite D. Way to the Van Allens. In view of the NATW submission, the OHA found it necessary to obtain additional facts in order to determine if Mr. Way should have received the refund for Way Oil Company. Accordingly, the OHA rescinded the refund granted to Robert E. Way.

Texaco Inc./Stewart's Texaco, 12/12/91, RF321-18096

The Department of Energy (DOE) issued a Decision and Order rescinding a refund that had been granted to Collene Stewart in the Texaco special refund proceeding. The refund was based upon the premise that Ms. Stewart was the sole owner and operator of Stewart's Texaco. Subsequently, Ms. Stewart's ex-husband claimed that he owned and operated Stewart's Texaco during the refund period. Because the factual basis underlying the granting of the refund was incorrect, the DOE rescinded the refund until a determination as to the appropriate recipient can be made.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Buff's ARCO.	RF304-12523	12/10/91
Atlantic Richfield Company/Hancock Oil Company.	RF304-3451	12/09/91
Frank Ferguson	RF304-9983	
Frank Ferguson	RF304-9984	
Atlantic Richfield Company/Paul's ARCO.	RF304-12646	12/10/91
Atlantic Richfield Company/Smitty's ARCO Service.	RF304-3332	12/10/91
Johnsonbaugh ARCO	RF304-4617	
Venango Auto Service.	RF304-5581	
Ralph's ARCO Service.	RF304-7172	
Atlantic Richfield Company/Southern California Edison Company.	RF304-6698	12/10/91
Big Bend Resources Trust.	RF272-66396	12/12/91
El Paso Electric Company.	RF272-66397	
City of Camden *et al.*	RF272-83801	12/10/91
City of Stockton, Kansas.	RF272-42123	12/09/91
Enron Corporation/ Grant's T.V. & Appliance.	RF304-28	12/09/91
Enron Corporation/ Schreiner's, Inc.	RF304-15	12/11/91
Evergreen Local School District *et al.*	RF272-84201	12/10/91
Gulf Oil Corporation/ Bayshore Marine Basin, Inc.	RF300-12821	12/12/91
J.M. Tuten, Inc.	RF300-12934	
J.M. Tuten, Inc.	RF300-12982	
Lester C. Newton Trucking Co. *et al.*	RF272-78544	12/12/91
Lincoln Paper Company.	RF272-229	12/11/91
Lincoln Paper Company.	RD272-229	
Shell Oil Company/ Quality Oil Co. I (Quality Oil of W. End/So. Pines, Inc.).	RF315-10178	12/10/91
Texaco Inc./Bartow Oil Co. *et al.*	RF321-13184	12/12/91
Texaco Inc./ Berryman Texaco *et al.*	RF321-819	12/11/91
Texaco Inc./Bias Texaco *et al.*	RF321-10374	12/09/91
Texaco Inc./Bill Cook's Texaco *et al.*	RF321-825	12/11/91
Texaco Inc./Burke's Texaco *et al.*	RF321-12183	12/09/91
Texaco Inc./Gaare Oil Company *et al.*	RF321-8811	12/13/91
Texaco Inc./John Nash.	RF321-10808	12/09/91
John Nash	RF321-10809	
John Nash	RF321-10810	
John Nash	RF321-10811	
John Nash	RF321-10812	
John Nash	RF321-10813	
John Nash, Consignee.	RF321-12241	
Texaco Inc./Lund's Texaco.	RR321-101	12/12/91
Jack Lund Texaco		
Texaco Inc./Sid's Texaco *et al.*	RF321-10004	12/13/91
Unified School District #437 *et al.*	RF272-84057	12/10/91
Zoological Society of Buffalo *et al.*	RF272-84416	12/10/91

Dismissals

The following submissions were dismissed:

Name	Case No.
Automatic Lubrication Service, Inc	RF321-16355
Blackmon's Crystal USA	RF321-62
Bowers ARCO	RF304-5826
Caulder Truck Stop	RF300-14270
Dedham Oil Co	RF321-97
Frank's Texaco	RF321-17939
G.C. Mungo & Son Texaco	RF321-17861
Garden Homes Management	RF272-10429
General Aviation of New Orleans	RF300-14007
Inspiration Resources Corp	RF272-25445
John J. Meiler, Jr	RF307-10200
John J. Meiler, Jr	RF307-10201
Koenig Kwiki Kar Wash	RF321-11797
Lee's Texaco	RF321-17937
Medina Texaco	RF321-2931
Medina Texaco	RF321-11384
Nixon, Chapman Gulf	RF300-12514
Norbert Begick	RF329-10
Office of Energy Conservation & Alternative Energy.	RM3-242
Petroleum Funds, Inc	RF272-80290
Petroleum Funds, Inc	RF272-85181
Petroleum Funds, Inc	RF272-81237
Petroleum Funds, Inc	RF272-85629
Powell's ARCO	RF304-5033

Name	Case No.
Rector's Texaco	RF321-17921
Sigmund Wilkowski	RF304-3848
Smith Oil Co., Inc.	RF304-3769
Tom Allgood	RF321-12330
Wapinsky Brothers	RF300-13204

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 17, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-1884 Filed 1-24-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of December 16 Through December 20, 1991

During the week of December 16 through December 20, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Foundation for Fair Contracting, 12/16/91, LFA-0166

The Foundation for Fair Contracting (FFC) filed an Appeal from a partial denial by the Western Area Power Administration (WAPA) of a request for information submitted under the Freedom of Information Act (FOIA). In its determination, WAPA released a copy of the certified payroll records of Brinks Electric Company for the Tracy Switchyard Project, No. 91WNO7520, from which the names, addresses, and social security numbers of contractor employees were deleted. WAPA had determined, pursuant to Exemption 6 of the FOIA, that disclosure of this information would violate the privacy of the employees and would not be in the public interest. In considering the Appeal, the DOE found that the public interest in the disclosure of the withheld information was outweighed by the privacy interests of employees in preventing the unlimited disclosure of their names and addresses. The FFC's appeal was accordingly denied.

Leslie Vallie, 12/20/91, LFA-0168

Leslie Vallie filed an Appeal from a determination issued to him by the DOE's Western Area Power Administration (WAPA) on a request for information under the Freedom of Information Act (FOIA) Vallie had requested information concerning the recruitment efforts and evaluation of candidates for a Supervisory Contract Specialist position. In its determining, WAPA withheld an internal personnel document and the names of a Personnel Officer and three Panel Members from a Summary Rating and Ranking Sheet pursuant to Exemption 5 of the FOIA, and the names and scores of the candidates, under Exemption 6. In considering the Appeal, OHA determined that the internal personnel document appears to be a standard form which contained little or no information which could be considered deliberative. Consequently, OHA remanded that document to WAPA to consider whether it is exempt from mandatory disclosure under the FOIA. Regarding the Summary Rating and Ranking Sheet, OHA found that WAPA properly withheld the names of the Panel Members under Exemption 5, and the names of the candidates under Exemption 6. OHA also found that WAPA's determination to withhold the name of the Personnel Officer, under Exemption 5, and the candidates' scores, under Exemption 6, had not been adequately justified. OHA remanded these matters to WAPA to either release the information or issue a new determination explaining why it is exempt. Accordingly, OHA granted Vallie's Appeal in part and denied it in part.

Refund Applications

American Fiber & Finishing, Inc., The Kendall Company, 12/18/91, RF272-47516, RF272-47517, RD272-47517

The DOE issued a Decision and Order denying the refund application of American Fiber & Finishing, Inc., (AF&F) and granting the application of The Kendall Company (TKC) in the crude oil refund proceeding. AF&F based its claim on petroleum products consumed at a manufacturing plant which it had acquired from TKC after the decontrol of Federal petroleum prices. The DOE examined the specific terms of the assets sale agreement between the two firms, and determined that TKC had retained the right to receive an oil overcharge refund when it sold the plant to AF&F. The amount of the refund approved was $31,467. A consortium of states and territories filed a Motion for Discovery in connection with TKC's application, which was denied for reasons discussed in earlier subpart V crude oil Decisions. See, *e.g., Christian Haaland A/S*, 17 DOE ¶ 85,439 (1988).

Eli Lilly and Company, 12/16/91, RC272-151

The DOE issued a Decision and Order concerning an Application for Refund (RF272-23220) filed by Eli Lily & Company in the Subpart V crude oil refund proceeding. The DOE determined that the initial refund amount granted was incorrect. Therefore, this supplemental order specified the correct refund amount of $101,396.

Texaco Inc./ Cairo Texaco, 12/20/91 RF321-866, RF321-930

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning two Applications for Refund filed by separate individuals on behalf of a service station which purchased refined petroleum products directly from Texaco during the consent order period. Both of the applicants requested a refund based on purchases they claimed to have made for this station during the same time period. One of the applicants, J.C. Lyle of Lyle Gas Co. (RF321-866), submitted information which established that he operated the service station during the time period for which he claimed a refund. Wesley Van Brunt, the applicant in Cairo Texaco (Case No. RF321-930), failed to provide information which established that he purchased the product or owned the service station during the period. Therefore, the DOE determined that Lyle Gas Co. was eligible to receive a refund of $1,289 ($1,002 principal plus $287 interest) and denied the Application for Refund filed by Wesley Van Brunt on behalf of Cairo Texaco.

Texaco Inc./Santee Distributing Co. et al., 12/19/91, RF321-9108 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Texaco Inc. special refund proceeding. Dennis L. Cross and James L. Cross, owners of Cross Petroleum (Case No. RF321-11764) (Cross), a consigneeship, submitted applications on behalf of Cross and three other retail outlets which they owned, Yreka Texaco (Case No. RF321-11652), Valley Gas (Case No. RF321-11653) and D & J Texaco (Case No. RF321-11654). These outlets obtained their Texaco products exclusively from Cross. The DOE approved the consignee refund claim. However, the DOE denied the refund applications of the affiliated retail outlets holding that petroleum products which are consigned to one firm then

sold to an affiliated firm may not only be included only once in calculating the appropriate refund amount. Cross' and the remaining applicants' allocable shares each exceeded $10,000. The DOE determined that since none of these applicants elected to make a showing of injury, each applicant was eligible to receive the larger of $10,000 or 50 percent of its allocable share up to $50,000. The sum of the refunds granted in this Decision is $179,380, representing $139,476 principal and $39,904 interest.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Citronelle-Mobile Gathering/Essex Chemical Corp.	RF336-11	12/17/91
Citronelle-Mobile Gathering/Hercules Inc., Aqualon Co., Hercules Inc.	RF336-18 RF336-19 RF336-24	12/20/91
Citronelle-Mobile Gathering/Orlando Utilities Commission.	RF336-30	12/18/91
City of Lawton *et al*	RF272-74046	12/19/91
County of Orange, General Services Agency, California *et al.*	RF272-59754	12/17/91
Enron Corporation/ National Cooperative Refinery Association.	RF340-2	12/20/91
Exxon Corporation/ William E. Sullivan.	RF307-10205	12/16/91
General Dynamics Corporation, General Dynamics Corporation.	RF272-27790 RD272-27790	12/18/91
Gulf Oil Corporation/ Airland Gulf.	RF300-18672	12/16/91
Gulf Oil Corporation/ Emmet Oil Company *et al.*	RF300-13019	12/16/91
Gulf Oil Corporation/ Gulf Mart U-Haul *et al.*	RR300-111	12/19/91
Gulf Oil Corporation/ Hutchison Gulf *et al.*	RF300-14135	12/19/91
Gulf Oil Corporation/ J. Ray Hunter, Inc., F.S. Winterle & Son, T.L. Baker, Daniels-Mckown Oil Company.	RF300-58 RR300-76 RR300-84 RR300-89	12/16/91
Gulf Oil Corporation/ Joseph A. Majka & Sons *et al.*	RR300-23	12/20/91
Las Vegas Paving Corp., Las Vegas Pavings Corp.	RF272-74755 RD272-74755	12/18/91
Tarkenton Brothers, Inc.	RF272-74763	12/16/91
Texaco Inc./B.H. Deligans *et al.*	RF321-12284	12/19/91
Texaco Inc./Bob's Hilltop Texaco.	RF321-18129	12/20/91
Texaco Inc./ Brookside Texaco *et al.*	RF321-7010	12/19/91
Texaco Inc./Highland Springs Texaco *et al.*	RF321-3714	12/20/91
Texaco Inc./JG's Texaco *et al.*	RF321-1671	12/19/91
Texaco Inc./Lee Paradise Texaco, Lee Paradise Texaco, Lee Paradise Texaco, Lee Paradise Texaco, Lee's Texaco Station.	RF321-589 RF321-599 RF321-600 RF321-601 RF321-605	12/17/91
Texaco Inc./Rupp Gasoline & Oil, Inc., Rupp Service Station.	RF321-12524 RF321-17743	12/20/91
Texaco Inc./Scheri Brothers, Inc. *et al.*	RF321-6551	12/17/91

Dismissals

The following submissions were dismissed:

Name	Case No.
Gorin & Lobb Oil Co., Inc	RF 324-18
Jerry Stevens	RF300-11875
Lowell Harris	RF300-12154
Patsy Jennings	RF300-11633
Robert J. Algee	RF300-11871
Smitty's Arco Service	RF304-5076
Webbs Arco	RF304-4345

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 17, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-1893 Filed 1-24-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Salt Lake City Area Integrated Projects Proposed Firm Power Rate and Colorado River Storage Project Proposed Firm Transmission Rate Adjustments

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Reopening of Comment Period on the Proposed Salt Lake City Area Integrated Project (SLCA/IP) Firm Power and Colorado River Storage Project (CRSP) Firm Transmission Rate Adjustments.

SUMMARY: Western Area Power Administration (Western) is announcing a second consultation and comment period on the rate increase for firm power from the SLCA/IP and for firm transmission from the CRSP. This rate action was originally announced in the **Federal Register** on September 18, 1991, at 56 FR 47203-47205.

This action is taken in response to public comment that additional time is needed for comments on some unresolved issues relative to the rate adjustment.

PROCEDURES: A revised power repayment study will be made available during the consultation and comment period. It will contain fiscal year (FY) 1991 actual financial data and the FY 1992 Congressional Budget data. An addendum to the brochure explaining the need for the proposed rate increases and the methodology used in developing the proposed rates will be distributed to SLCA/IP power and CRSP transmission customers and other interested parties following publication of this notice. Customers and interested parties are invited to comment on the proposed rates and the methodology used to develop the rates. Comments already submitted will be given full consideration in this second comment period and do not need to be resubmitted.

Following the close of the consultation and comment period, Western will prepare another power repayment study and another CRSP transmission rate study, which will include any changes due to consideration of public comments. Western will recommend the results of those studies as the final proposed rates to the Assistant Secretary for Conservation and Renewable Energy to be placed in effect on an interim basis prior to submission to the Federal Energy Regulatory Commission (FERC) for approval on a final basis.

EFFECTIVE DATES: The consultation and comment period will begin January 27, 1992, and will end on May 1, 1992.

Western will explain the methodology and information used in developing the revised proposed rates and answer questions at a public information forum, which will be held at the Salt Lake Hilton, 150 West 500 South, Salt Lake City, Utah, at 1:30 p.m. on March 30,

1992. Western will receive oral and written comments at a public comment forum at the Quality Inn City Center at 9:30 a.m. on April 14, 1992. Both forums will be transcribed by a court reporter. All questions raised at the information forum will be answered at the forum or at least 15 days before the end of the consultation and comment period. Written comments should be received by the end of the consultation and comment period to be assured consideration. Comments may be sent to:

Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147-0606, (801) 524-5493.

SUPPLEMENTARY INFORMATION: Power rates for the SLCA/IP and transmission rates CRSP are established pursuant to the Department of Energy Organization Act 42 U.S.C. 7101, *et seq.;* the Reclamation Act of 1902, 32 U.S.C. 388, *et seq.;* as amended and supplemented by subsequent enactments, particularly § 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Amendment No. 2 to Delegation Order No. 0204-108, published August 23, 1991 (56 FR 41835), the Secretary of Energy delegated (1) the authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Assistant Secretary for Conservation and Renewable Energy of DOE; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to FERC.

The procedures for public participation in rate adjustments for power and transmission services marketed by Western which are found at 10 CFR part 903, were published in the **Federal Register** at 50 FR 37835 on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums made or kept by Western for the purpose of developing the proposed rates are and will be available for inspection and copying at Western's Salt Lake City Area Office, 257 East 200 South, suite 475, Salt Lake City, Utah.

Issued at Golden, Colorado, January 17, 1992

William H. Clagett,

Administrator.

[FR Doc. 92-1895 Filed 1-24-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4096-4]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of final actions.

SUMMARY: The purpose of this notice is to announce that between July 1, 1991 and January 7, 1992, the United States Environmental Protection Agency (EPA), Region II Office, issued three final determinations, the New York State Department of Environmental Conservation (NYSDEC) issued eleven final determinations, and the New Jersey Department of Environmental Protection and Energy (NJDEPE) issued four final determinations pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR § 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **"SUPPLEMENTARY INFORMATION"**).

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Riva, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency Region II Office, 26 Federal Plaza, room 505, New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region II, the NYSDEC, and the NJDEPE have made final determinations relative to the sources listed below:

Name	Location	Project	Agency	Final action	Date
Power City Powers, L.P	Massena, New York	79 MW combined cycle gas turbine cogeneration project firing natural gas with #2 oil as backup fuel.	NYSDEC	Non-applicability	July 3, 1991.
Onondaga Cogeneration Limited Partnership.	Syracuse, New York	79 MW combined cycle gas turbine cogeneration project firing natural gas with #2 oil as backup fuel.	NYSDEC	Non-applicability	July 12, 1991.
IBM Corporation	Fishkill, New York	Modification of operational conditions for an emergency diesel generator.	NYSDEC	Non-applicability	July 17, 1991.
Trenton District Energy Co	Trenton, New Jersey	Modification to existing State Permit for the installation of a catalytic oxidizer to reduce CO and UHC.	NJDEPE	Non-applicability	August 2, 1991.
Indeck Silver Springs Cogeneration Facility.	Silver Springs, New York	Modification of existing PSD Permit limits for CO, PM, & NO_x.	NYSDEC	Revised PSD Permit	September 3, 1991.
RSR Corporation	Wallkill, New York	Addition of 2 diesel-powered standby electrical generators.	NYSDEC	Non-applicability	September 4, 1991.
Algonquin Gas	Stony Point, New York	Addition of a Solar Mars Gas turbine firing natural gas.	NYSDEC	Non-applicability	October 2, 1991.
Camden Cogeneration Limited Partnership.	Camden, New Jersey	2 Turbines, combined cycle cogeneration facility.	NJDEPE	Non-applicability	October 15, 1991.
Oxbow Power	Tonowanda, New York	55 MW combined cycle gas turbine cogeneration project firing natural gas #2 oil as backup fuel.	NYSDEC	Non-applicability	October 16, 1991.
Ball Metal Container	Saratoga Springs, New York	Addition of a fourth coating line and thermal afterburner.	NYSDEC	Non-applicability	October 23, 1991.

Name	Location	Project	Agency	Final action	Date
AroChem International, Inc	Ponce, Puerto Rico	Reactivation of the CPI-1 plant at CORCO's petrochemical complex.	EPA	Non-applicability	November 5, 1991.
Indeck Energy	Ilion, New York	79 MW combined cycle gas turbine cogeneration project firing natural gas with #2 oil as backup fuel.	NYSDEC	Non-applicability	November 13, 1991.
Kamine Syracuse	Solvay, New York	80 MW combined cycle gas turbine cogeneration project firing natural gas with #2 oil as backup fuel.	NYSDEC	PSD Permit	November 20, 1991.
Squibb Manufacturing, Inc	Humacao, Puerto Rico	Caloric hazardous waste incinerator with a maximum liquid feed rate of 20 gallons per minute.	EPA	Non-applicability	November 22, 1991.
Procter and Gamble	Staten Island, New York	Modification of wood fiber boiler #4 at the Port Ivory Plant.	EPA	PSD Permit Modification.	December 9, 1991.
General Motors Corporation	Linden, New Jersey	Paint shop modification	NJDEPE	Non-applicability	December 19, 1991.
East Syracuse Generating Company, L.P.	East Syracuse, New York	106 MW combined cycle gas turbine cogeneration project firing natural gas with #2 oil as backup fuel.	NYSDEC	Non-applicability	December 25, 1991.
Keyston Cogeneration Systems, Inc.	Logan Township, New Jersey	1 pulverized coal fired 2116 MM BTU/HR boiler cogeneration plant with auxiliary boiler and other related equipment.	NJDEPE	PSD Permit	January 7, 1991.

This notice lists only the sources that have received final PSD determinations. Anyone who wishes to review these determinations and related materials should contact the following offices:

EPA Actions

United States Environmental Protection Agency, Regional II Office, Permits Administration Branch—room 505, 26 Federal Plaza, New York, New York 10278.

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001.

NJDEPE Actions

New Jersey Department of Environmental Protection and Energy, Division of Environmental Quality, Bureau of Engineering and Technology, 401 East State Street, Trenton, New Jersey 08625.

If available pursuant to the Consolidated Permit Regulations (40 CFR part 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the Federal Register. Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: January 17, 1992.

William Muszynski,

Acting Regional Administrator.

[FR Doc. 92–1899 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4096–2]

Science Advisory Board, Research Strategies Advisory Committee

February 12, 1992.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will conduct a meeting on February 12, 1992. The purpose of the meeting will be to review the FY 1993 President's Budget Request for Research and Development activities in EPA. The meeting will be held at the Holiday Inn Old Towne, 480 King St. Alexandria, VA. 22314. The hotel telephone number is (703) 549–6080. The session will begin at 9 am, ending no later than 5 pm.

The meeting is open to the public, and seating is limited. Any member of the public wishing further information concerning the meeting should contact Mr. Randall C. Bond, Designated Federal Official, Research Strategies Advisory Committee at (202) 260–6552. Those individuals requiring a copy of the Agenda should contact Ms. Janice Jones at the same number. Members of the public wishing to make comments at the sessions should provide those comments to Mr. Bond no later than January 29, 1992. Comments will be limited to 5 minutes, and the Science Advisory Board expects that such items will not be repetitive of previously submitted materials.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 92–1900 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4096–3]

CERCLA Consent Decree Entered for Recovery of Response Costs, Interest, and Statutory Penalties—Resolve Manufacturing, Inc. Site, NY

AGENCY: Environmental Protection Agency.

ACTION: Information notice.

The Environmental Protection Agency ("EPA") Region II announces entry of a consent decree under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. 9601–9675. EPA has settled with five potentially responsible parties ("PRPs") for oversight, enforcement and indirect costs, as well as penalties for violation of an EPA order issued in connection with the Resolve Manufacturing, Inc. Site ("Site") located in Falconer, New York. The Consent Decree, between EPA and the Environmental Service Group (NY), Inc., Custom Muffler Service Center, Inc., Ethan Allen, Inc., Products Finishing, Inc., and Seco Corp., was entered by the United States District Court, Western District of New York, on October 31, 1991.

Under the settlement, EPA has recovered $128,000 with interest. This amount includes a $40,000 penalty for

violation of an administrative order ("AO") that directed five PRPs to participate in a drum removal action at the Site. The five PRPs failed to participate in the removal action which was performed by nearly 100 other cooperating PRPs at a response cost of approximately $150,000. In addition to penalties, EPA used its enforcement discretion to seek approximately $90,000 in response costs from the recalcitrant recipients of the AO rather than from the PRPs that consented to perform the cleanup. The value of the cost/penalty settlement reportedly represents over twenty times the amount that these parties would have paid to participate in the original settlement of this matter.

FOR FURTHER INFORMATION CONTACT: Virginia Capon, Assistant Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, New York, 10278, telephone: (212) 264–4471.

Dated: January 10, 1992.

Constantine Sidamon-Eristoff,

Regional Administrator.

[FR Doc. 92–1901 Filed 1–24–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–51783; FRL 4045–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 16 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92–265, February 24, 1992.

P 92–282, March 1, 1992.

P 92–372, April 1, 1992.

P 92–373, 92–374, 92–375, April 4, 1992.

P 92–376, 92–377, 92–378, 92–379, 92–380, 92–381, 92–382, 92–383, 92–384, April 5, 1992.

P 92–385, April 6, 1992.

Written comments by:

P 92–265, January 25, 1992.

P 92–282, January 31, 1992.

P 92–372, March 2, 1992.

P 92–373, 92–374, 92–375, March 5, 1992.

P 92–376, 92–377, 92–378, 92–379, 92–380, 92–381, 92–382, 92–383, 92–384, March 6, 1992.

P 92–385, March 7, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–51783)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE –G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92–265

Manufacturer. Rhone-Poulenc Inc.

Chemical. (G) UV curable silicone resin.

Use/Production. (G) Coating. Prod. range: Confidential.

P 92–282

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymers A, A1, and A2.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 92–372

Manufacturer. Confidential.

Chemical. (S) Cyclic resin formers; dicyclopentadione; para-tent-butylphenol resin; aromatic naptha; para-tent-butylphenol resin.

Use/Production. (S) Printing ink vehicles. Prod. range: 80,000–90,000 kg/yr.

P 92–373

Importer. Degussa Corporation.

Chemical. (S) 3-Chloro-2-hydroxypropyl-*N,N,N*-dimethyloctadecyclammoniumchloride.

Use/Import. (S) Production of catronic polymers. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3784 mg/kg species (rat). Static acute toxicity: time LC50 0.34 mg/l species (brachydanio rerio). Eye irritation: strong species (rabbit). Skin irritation: slight species (rabbit).

P 92–374

Manufacturer. Confidential.

Chemical. (G) Partiaaly fluorinated diester.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92–375

Manufacturer. Confidential.

Chemical. (G) Partially fluorinated polyimide.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92–376

Manufacturer. Confidential.

Chemical. (G) Carboxylated styrene, butadiene polymer.

Use/Production. (G) Binder ingredient in non woven articles. Prod. range: Confidential.

P 92–377

Importer. Confidential.

Chemical. (G) Acetamide derivative.

Use/Import. (G) Coloring agent. Import range: Confidential.

P 92–378

Manufacturer. Confidential.

Chemical. (G) Modified glucosied.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92–379

Manufacturer. Confidential.

Chemical. (G) Modified glucoside, alkoxylated.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92–380

Manufacturer. PPG Industries, Inc.

Chemical. (G) Substituted polyethylenimide polyamide.

Use/Production. (G) Lubricant. Prod. range: Confidential.

P 92–381

Importer. Confidential.

Chemical. (G) Polyol ester.

Use/Import. (G) Lubricant. Import range: Confidential.

Toxicity Data. Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative.

P 92-382

Manufacturer. Monsanto Company.

Chemical. (G) Acrylonitrile-co-substituted ethane-co-substituted benzene sulfonic acid, sodium salt.

Use/Production. (S) Polymer used in fiber manufacturing. Prod. range: Confidential.

P 92-383

Manufacturer. Confidential.

Chemical. (G) Aliphatic phosphate ester salt.

Use/Production. (S) Asphalt antistripping additive. Prod. range: 56,818.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Static acute toxicity: time LC50 3.01 mg/l species (fathead minnow).

P 92-384

Manufacturer. Ricoh Corporation.

Chemical. (G) Quaternary ammonium salt of fluorinated alkyl-arylamide.

Use/Production. (G) Component of toner for copier. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Static acute toxicity: time LC50 96h1.91. mg/l species (carp). Eye irritation: strong species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 92-385

Importer. Confidential.

Chemical. (G) Aliphatic amine/epoxy adduct.

Use/Import. (S) Internal coating for storage tank. Import range: Confidential.

Dated: January 21, 1992.

Ruby N. Boyd,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-1903 Filed 1-24-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Compania Sud Americana de Vapores, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011298-001.

Title: FMG/CSAV Joint Service Agreement.

Parties:

Compania Sud Americana de Vapores ("CSAV"),

Flota Mercante Grancolombiana ("FMG"),

Naviera Interamericana Navicana S.A. ("NAV").

Synopsis: The proposed amendment (1) adds NAV as a party to the Agreement; (2) changes the name of the Agreement to FMG/CSA/NAV Cooperative Working Agreement; (3) expands the scope of the Agreement to include Mexico; and (4) makes other miscellaneous changes. The parties have requested a shortened review period.

Dated: January 21, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-1851 Filed 1-24-92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 412
Name: Castelazo/Castelazo & Associates
Address: 5420 West 104th St., Los Angeles, CA 90045
Date: October 25, 1991
Reason: Failed to furnish a valid surety bond.

License Number: 467
Name: Carolina Shipping Company
Address: P.O. Box 874, Charleston, SC 29402
Date Revoked: December 18, 1991
Reason: Failed to furnish a valid surety bond.

License Number: 629
Name: John a. Conkey & Co., Inc.
Address: 67 Broad street, Boston, MA 02109
Date revoked: January 1, 1992
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92-1832 Filed 1-24-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citco Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104

Marietta Street, NW., Atlanta, Georgia 30303:

1. Citco Bancshares, Inc., Elizabethton, Tennessee; to engage *de novo* through its subsidiary, Small Business Resources, Inc., Elizabethton, Tennessee, in soliciting and packaging loans, and underwriting and funding the packages pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-1866 Filed 1-24-92; 8:45 am]

BILLING CODE 6210-01-F

Southern Banking Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 18, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Southern Banking Corporation, Altamonte Springs, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Bank of Central Florida, Altamonte Springs, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CNB Bancshares, Inc., Evansville, Indiana, and CNB of Central Indiana, Inc., Evansville, Indiana; to acquire 100 percent of the voting shares of Indiana Bancshares, Inc., Greenwood, Indiana, and thereby indirectly acquire The Bargersville State Bank, Greenwood, Indiana, and Bloomington Bank & Trust, Bloomington, Indiana.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First National Agency of Bagley, Bagley, Minnesota, and First National Bank of Bagley, Bagley, Minnesota; to acquire 100 percent of the voting shares of Fosston Bancorporation, Inc., Fosston, Minnesota, and thereby indirectly acquire Farmers State Bank of Fosston, Fosston, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Commerce Bancshares, Inc., Kansas City, Missouri; to acquire 100 percent of the voting shares of First Peoria Corp., Peoria, Illinois, and thereby indirectly acquire The First National Bank of Peoria, Peoria, Illinois; First National Bank of Woodford County, Metamora, Illinois; and The Tazewell County National Bank of Delavan, Delavan, Illinois. In connection with this application, CBI-Illinois, Inc., Kansas City, Missouri, a subsidiary of Commerce Bancshares, will become a bank holding company by merging with First Peoria.

2. Dawson Corporation, Lexington, Nebraska; to acquire 14.6 percent of the voting shares of Guaranty Corporation, Denver, Colorado, and thereby inidrectly acquire Guaranty Bank and Trust Company, Denver, Colorado.

Board of Governors of the Federal Reserve System, January 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-1867 Filed 1-24-92; 8:45 am]

BILLING CODE 6210-01-F

Richard Spotswood Thomson, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 18, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Richard Spotswood Thomson, Hattiesburg, Mississippi; to acquire an additional 12.73 percent of the voting shares of First National Corporation of Picayune, Picayune, Mississippi, for a total of 25.07 percent, and thereby indirectly acquire First National Bank of Picayune, Picayune, Mississippi.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Charles D. and Lonne J. Carr, Hayward, California; to acquire at least 10.77 percent, but no more than 15.56 percent of the voting shares of Civic Bancorp, Oakland, California, and thereby indirectly acquire Civic Bank of Commerce, Oakland, California.

Board of Governors of the Federal Reserve System, January 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-1868 Filed 1-24-92; 8:45 am]

BILLING CODE 6210-01-F

U.S. Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 1992.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. U.S. Bancorp, Portland, Oregon; to acquire Brokerage Information Systems, Inc., and Brokerage Information Systems, a limited partnership, Sacramento, California; and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-1869 Filed 1-24-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Ambulatory and Hospital Care Statistics: Meeting

Pursuant to Public Law 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting.

Name: NCVHS Subcommittee on Ambulatory and Hospital Care Statistics.

Time and Date: 9 a.m.-5 p.m., February 12-13, 1992.

Place: Room 337A-339A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to continue a systematic review of the Uniform Hospital Discharge Data Set. The Subcommittee also will address other aspects of its charge, as time permits.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: July 21, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-1860 Filed 1-24-92; 8:45 am]

BILLING CODE 4160-18-M

National Committee on Vital and Health Statistics (NCVHS), Subcommittee on State and Community Health Statistics; Meeting

Pursuant to Public Law 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting.

Name: NCVHS Subcommittee on State and Community Health Statistics.

Time and Date: 1 p.m.-5 p.m., February 20, 1992, 9 a.m.-5 p.m., February 21, 1992.

Place: Room 303A-305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to continue to explore issues and concerns about the availability of statistics to monitor the health of communities.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: January 21, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-1861 Filed 1-24-92; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Program Announcement and Proposed Funding Preference for Grants for Centers of Excellence in Minority Health Professions Education

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1992 for Grants for Centers of Excellence (COE) in Minority Health Professions Education are being accepted under the authority of section 782 of the Public Health Service Act (the Act), title VII as amended by the Disadvantaged Minority Health Improvement Act of 1990, Public Law 101-527. Comments are invited on the proposed funding preference stated below.

The FY 1992 appropriation for the Centers of Excellence program is $24.1 million. Total continuation support previously recommended is $14,544,957; for Historically Black Colleges and Universities, $12,092,527; for Hispanic COEs, $1,456,107; and for Native American COEs, $996,324. Approximately $9.6 million will be available to support about 45 competing awards averaging $210,000. As required by statute, a funding priority will be given applications requesting support for Hispanic, Native American, or Other Centers of Excellence.

Regulations at 42 CFR part 57, subpart V (54 FR 28067) govern this program.

Eligibility

Section 782, as amended by Public Law 101-527, authorizes the Secretary to make grants to schools of medicine, dentistry and pharmacy as defined in section 701(4) and as accredited in section 701(5) of the Act for the purpose of assisting the schools in supporting programs of excellence in health professions education for Black, Hispanic and Native American individuals, as well as for Historically Black Colleges and Universities as described in section 701(4) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987.

To qualify as a COE, a school is required to:

1. Have a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

2. Demonstrate that it has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

3. Show that it has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals, and encouraging minority students of secondary educational institutions to attend the health professions school; and

4. Demonstrate that it has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

These entities must be located in any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Historically Black College and University (HBCU) COES, may:

(1) Develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

(2) Provide improved access to the library and informational resources of the school.

For Hispanic Centers of Excellence, the health professions schools must agree to give priority to carrying out the duties with respect to Hispanic individuals.

Regarding Native American Centers of Excellence, the health professions school must agree to:

1. Give priority to carrying out duties with respect to Native Americans;

2. Establish a linkage with one or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans for purposes of identifying potential Native American health professions students of the institution who are interested in a health professions career and facilitating their entry into health professions schools; and

3. Make efforts to recruit Native American students, including those who have participated in the undergraduate program of the linkage school, and will assist them in completing the degree requirements of the health professions school.

To qualify as an "Other Minority Health Professions Education Center of Excellence" a health professions school (i.e., a school of medicine, dentistry, or pharmacy) must have an enrollment of underrepresented minorities above the national average for student enrollments in that health professions discipline.

Purposes

Grants for eligible HBCUs, Hispanic, Native American and Other Centers of Excellence may be used by the school for the following purposes:

1. To establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

2. To establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

3. To improve the capacity of such school to train, recruit, and retain minority faculty;

4. To carry out activities to improve the information resources and curricula of the school and clinical education at the school with respect to minority health issues; and

5. To facilitate faculty and student research on health issues particularly affecting minority groups.

In addition, grants for eligible HBCUs may also be used to develop a plan to achieve institutional improvements, including financial independence, and to improve library access.

Applicants must address at least three of the five legislative purposes.

Healthy People 2000 Objectives

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Centers of Excellence Program is related to the priority area of Educational and Community-Based programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and service programs which provide comprehensive primary care services to the underserved.

Statutory Requirements

Duration of Grants

Payments under grants for Centers of Excellence may not exceed 3 years, subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved.

Maintenance of Effort

A health professionals school which is a public school receiving a grant will be required to maintain expenditures of non-Federal amounts for the specified activities at a level not less than the level maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive a grant. Nonprofit private health professions schools that are grant recipients will be required to maintain non-Federal expenditures as described above but only to the extent of the level of non-Federal amounts available to the school for the activities.

Statutory Definitions

"Health professions schools" means schools of medicine, dentistry and pharmacy, as defined in section 701(4) and as accredited in section 701(5) of the Act. For purposes of the HBCUs, this definition means those schools described in section 701(4) of the Act and which received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for fiscal year 1987.

"Native Americans" means American Indians, Alaskan Natives, Aleuts and Native Hawaiians.

"Programs of Excellence" means any programs carried out by a health professions school with funding under section 782 Grants for Centers of Excellence in Minority Health Professions Education.

Other Definitions

The following definitions were established in fiscal year 1991 after public comment (56 FR 22440).

"A significant number of minority individuals enrolled in the school" means that to be eligible to apply for an Hispanic COE, a medical or dental school must at least 25 enrolled Hispanic students, and a school of pharmacy must have at least 20 enrolled Hispanic students. To apply as a Native American COE, an eligible medical or dental school must have at least 8 enrolled Native American students and a school of pharmacy must have at least 5 enrolled Native American students. To be eligible to apply for an Other Minority Health Professions Education COE, an eligible school must have above the national average of underrpresented minorities (medicine 13%, dentistry 15%, pharmacy 11%) enrolled in the school. These numbers

represent the critical mass necessary for a viable program. A viable program is one in which there is a sufficient number of students to warrant a Center of Excellence level educational program. Data from relevant professional associations indicate sharp differentiation in target group numbers among schools. Stated numerical levels are just above the median for schools reporting a critical mass necessary for a viable program. The requirement that schools applying for Other Minority Health Professions Education Centers have an enrollment of underrepresented students that is above the national average for that discipline is statutory.

"Effectiveness in Providing Financial Assistance" will be evaluated by examining the data on scholarships and other financial aid provided to the targeted group in relation to the scholarships and financial aid provided to the total school population.

"Effectiveness in Recruitment" will be evaluated by examining the first-year and total enrollments of targeted students in relation to the first-year and total enrollments for the entire school.

"Effectiveness in Retaining students" will be determined by retention rates for targeted group and academic and non-academic support systems operative for the target group of students at the school.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin.

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

"Underrepresented Minority" means, for any given health profession, a racial or ethnic group whose percentage among the total supply of practitioners in that health profession is below that group's percentage in the total population. This definition has consistently encompassed Blacks, Hispanics, and Native Americans.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project meets the legislative intent;
2. The administrative and managerial ability of the applicant to carry out the project in a cost effective manner;
3. The adequacy of the staff and faculty to carry out the program;
4. The soundness of the budget for assuring effective utilization of grant funds, and the proportion of total program funds which come from non-Federal sources and the degree to which they are projected to increase over the grant period;
5. The technical merit of the project as determined by the following elements:

a. Delineation of specific objectives which are consistent with the legislative purposes, measurable, and outcome oriented.

b. Description of a methodology which corresponds to the objectives and provides specific details on the activities, projects, or services which will be implemented to achieve the objectives, time frames for implementing the activities, projects or services, target population, responsible staff, and facilities which will be used to accomplish the objectives.

c. Description of a comprehensive evaluation plan inclusive of all objectives and activities and program performance indicators.

6. The number of individuals who can be expected to benefit from the project;
7. The overall impact the project will have on strengthening the school's capacity to train the targeted minority health professionals and increase the supply of such minority health professionals available to serve minority populations in underserved areas; and
8. The degree to which the applicant can arrange to continue the proposed project beyond the federally-funded project period.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

Funding Priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

Funding Preferences—funding of a specific category or group of approved applications ahead of the other categories or groups of applications, such as new projects ahead of expansion supplementals.

Statutory Funding Priority

As required by statute, a funding priority will be given to applications requesting support for Hispanic, Native American, or Other Centers of Excellence.

Proposed Funding Preference for FY 1992

A funding preference will be given to approved applications scoring in the upper 40th percentile or better, submitted by schools located in states which do not currently have a Center of Excellence in that discipline.

This funding preference is designed to achieve an equitable distribution of resources, both geographically and by eligible discipline. The rationale for giving a funding preference only to those applications in the upper 40th percentile or better is based on experience with the quality of Centers of Excellence applications scoring above and below this percentile. It is also based on HRSA's intent to fund only those programs having the strongest potential for achieving the objectives of the Centers of Excellence.

The proposed funding preference does not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for or elect the proposed funding preference are encouraged to submit applications.

Additional Information

Interested persons are invited to comment on the proposed funding preference. Normally the comment period would be 60 days. However, due to the need to implement any changes for the FY 1992 award cycle, this comment period has been reduced to 30 days. All comments received on or before February 26, 1992 will be considered before the final funding preference is established. No funds will be allocated or final selections made until a final notice is published stating when the final funding preference will be applied.

Written comments should be addressed to: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8A-09, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Disadvantaged Assistance, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for grant application materials and questions regarding grants policy and business management aspects should be directed to: Ms. Diane Murray, Grants Management Specialist (D34), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8C-26, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Completed applications should be forwarded to the Grants Management Specialist at the above address.

To obtain specific information regarding programmatic aspects of this grant program, direct inquiries to: Ms. Cynthia Amis, Acting Chief, Program Coordination Branch, Division of

Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8A-09, Rockville, Maryland 20857, Telephone: (301) 443-4493.

To receive consideration, applications must meet the deadline of March 13, 1992 which means they must either be:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline and received in time for submission to an independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

The standard application form, PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and Supplement have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

The Program, Grants for Centers of Excellence in Minority Health Professions Education is listed at 93.157 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

Dated: November 20, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 92-1913 Filed 1-24-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Consensus Development Conference on Diagnosis and Treatment of Early Melanoma

Notice is hereby given of the NIH Consensus Development Conference on "Diagnosis and Treatment of Early Melanoma" which will be held on January 27-29, 1992 in the Masur Auditorium of the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. This conference is sponsored by the National Cancer Institute and the NHI Office of Medical Applications of Research and cosponsored by the National Institute of Arthritis and Musculoskeletal and Skin Diseases. The conference starts at 8:30 a.m. each day.

The incidence of melanoma is rising rapidly. This malignancy is often fatal if not diagnosed and treated promptly. However, it has become clear that the specific clinical and histologic criteria for such early diagnosis are not completely agreed upon. Similarly, recent studies have indicated that the treatment of early melanoma may be less aggressive than previously recommended without compromising cure rates.

There has been great public awareness of malignant melanoma and, in some cases, unnecessary fear of both the development of the disease and its treatment. At the same time, increased surveillance and early intervention has the potential of providing greatly improved cure rates in the treatment of this disease. However, for this potential to be recognized, it must be possible to identify melanoma at its earliest stages, clinically and histologically, and to educate the population to the necessity for early diagnosis and treatment.

The conference will bring together experts from dermatology and pathology as well as experts in epidemiology, public education, surveillance techniques, and potential new technologies along with representatives of the public to explore the data and evaluate the current technology for diagnosis and treatment of this disorder.

Following a day and a half of presentations by experts and discussion by the audience, a Consensus Panel will weigh the scientific evidence and write a draft statement in response to the following questions:

—What are the clinical and histological characteristics of early melanoma?

—What is the appropriate management of patients with early melanoma regarding its diagnosis and treatment?

—After treatment of early melanoma, should patients and family members be followed? Why and how?

—Do dysplastic nevi exist and what are their significance?

—What is the role of education and screening in preventing melanoma morbidity and mortality?

—What are the future directions for reseach including primary prevention?

On the third day of the conference, following deliberation of new findings or evidence that might have been presented during the meeting, the panel will present its final consensus statement.

Information on the program may be obtained from: Marla Hollander, Prospect Associates, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 468-6555.

Dated: January 22, 1992.

Bernadine P. Healy,

Director.

[FR Doc. 92-1929 Filed 1-24-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-010-92-4370-08]

Wells Resource Management Plan; Environmental Assessment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent that the Bureau of Land Management (BLM) will prepare an amendment and associated environmental assessment (EA) to the Wells Resource Management Plan (RMP) for the management of wild horses on public lands in the Wells Resource Area, Elko County, Nevada. It is also a Notice of Scoping for the public to participate in the identification of planning issues, review of preliminary planning criteria, and formulation of alternatives for the amendment.

SUMMARY: The BLM will, pursuant to 43 CFR part 1610.5-5, prepare an amendment to the Wells RMP to: (1) Delineate wild horse herd management areas (HMAs); (2) identify wild horse habitat objectives; (3) establish wild horse management direction for: (a) Initial herd size, (b) criteria for adjusting initial herd size, and (c) constraints on other resources; and (4) combine part of the Cherry Creek Herd Area with the Maverick-Medicine Herd Area and remainder with the Antelope Valley Herd Area.

DATE: A 30-day public scoping period has been established to identify issues and concerns to be addressed in the amendment to the Wells RMP and to encourage public participation in the amendment and associated environmental process. Written comments on the scope of the amendment must be postmarked no later than March 6, 1992.

FOR FURTHER INFORMATION CONTACT: Bruce Portwood, Elko District Wild Horse Specialist, Bureau of Land Management, P.O. Box 831, Elko, NV 89801 or phone (702) 735-0200. Written comments may be sent to: District Manager, ATTN: Wild Horse Specialist, at the above address.

SUPPLEMENTARY INFORMATION: The Wells RMP encompasses over four million acres of public land in the Wells Resource Area of the Elko District and is

in the east end of Elko County, Nevada. The existing Wells RMP, approved in 1985, identified wild horse Herd Areas which would: (1) Continue to be monitored for wild horse populations and habitat conditions; (2) conduct gatherings as necessary and maintain populations within a range from 550 to 700 animals; (3) construct six water development projects; and (4) remove wild horses from private lands if required. However, it did not establish wild horse HMAs.

A major issue influencing this amendment focuses on the difficulties of managing wild horses on public lands intermixed with a high percentage of private lands, specifically on the checkerboard lands (areas with 50 percent or less public lands). This amendment will consider and analyze establishing HMAs in wild horse herd areas outside checkerboard lands. Wild Horse Herd areas that include checkerboard lands are the Spruce-Pequop, Goshute, and Toano Herd Areas.

The proposed issue to be addressed in this amendment is: Determine where and at what levels wild horses will be managed in wild horse herd areas in the Wells Resource Area.

The preliminary planning criteria that has been identified to be used in the development of this amendment is anticipated to be the same as that used for the development of the original Wells RMP.

A range of alternatives, stipulations, and mitigation measures, including but not limited to the No Action Alternative, will be considered to evaluate and minimize environmental impacts and to assure that the Preferred Alternative does not result in any significant impacts to the public lands in this area.

Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the BLM's decision on the amendment to the Wells RMP are invited to participate in the scoping process for this amendment. To be most helpful, comments should be as specific as possible.

Dated: January 21, 1992.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 92-1863 Filed 1-24-92; 8:45 am]

BILLING CODE 4310-HC-M

[CO-010-02-4320-02]

Craig District Grazing Advisory Board Meeting

Time and Date: February 27, 1992 at 10 a.m.

Place: Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Status: Open to the public, interested persons may make oral statements between 10 a.m. and 11 a.m., or may file written statements.

Matters to be considered:

1. Riparian Task Force Update.
2. Little Snake Coordinated Management Plan.
3. Area Reports.
4. Expenditures of Grazing Advisory Board Funds.

Contact Person for More Information: John Denker, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: January 17, 1992.

William J. Pulford,

District Manager.

[FR Doc. 92-1870 Filed 1-24-92; 8:45 am]

BILLING CODE 4310-JB-M

[NV-940-02-4212-22]

Filing of Plats of Survey; Nevada

January 15, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10 a.m. on January 9, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management, (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702-785-6543.

SUPPLEMENTARY INFORMATION:

1. The Plats of Survey of lands described-below were officially filed at the Nevada State Office, Reno, Nevada on January 9, 1992:

Mount Diablo Meridian, Nevada

T. 24 N., R. 61 E.—Dependent Resurvey
T. 23 N., R. 60 E.—Dependent Resurvey

2. These surveys were accepted November 27, 1991, and were executed to meet certain administrative needs of the Bureau of Land Management.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Robert G. Steele,

Deputy State Director, Nevada.

[FR Doc. 92-1829 Filed 1-24-92; 8:45 am]

BILLING CODE 4310-HC-M

[NV-940-02-4214-10; N-54955]

Notice of Proposed Withdrawal and Opportunity for Public Meeting, Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice corrects the legal description published on October 18, 1991, in Document 91-25189 on pages 52283-84.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702-785-6526.

SUPPLEMENTARY INFORMATION: The following corrections are made to **Federal Register** Document 91-25189 published on October 18, 1991, on pages 52283-84:

1. Page 52284, Column 1, Line 36, should read: "Sec. 34, Lots 1-3, W½ NE¼, NW¼, N½SW¼, NW¼SE¼."

2. Page 52284, Column 1, Line 13 from the bottom, should read: "Tps. 12½ S., Rs. 60 to 62 E., inclusive."

3. Page 52284, Column 1, add between lines 3 and 4 from the bottom:

"Tps. 14 S., Rs. 56 to 62 E., inclusive.
T. 15 S., R. 54 E., that portion lying within Clark County.
T. 15 S., R. 55 E.
T. 15 S., R. 55½ E."

4. Page 52284, Column 2, Line 16, should read: "Secs. 22, 23, and 24;"

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 92-1830 Filed 1-24-92; 8:45 am]

BILLING CODE 4310-HC-M

Bureau of Reclamation

Change in Discount Rate for Water Resources Planning

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of change in discount rate for water resources planning.

SUMMARY: This notice sets forth that the discount rate to be used in Federal water resources planning for fiscal year 1992 is 8½ percent.

DATES: This discount rate is to be used for the period October 1, 1991, through and including September 30, 1992

FOR FURTHER INFORMATION CONTACT: Mr. Kent Shuyler, Acting Chief, Economic Analysis Branch, U.S. Bureau of Reclamation, D–5440, Building 67, Denver Federal Center, Denver CO 80225–0007. Telephone 303/236–8388.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 8½ percent for fiscal year 1992.

This rate has been computed in accordance with section 80(a), Public Law 93–251 (88 Stat. 34) and 18 CFR 704.39, which (1) specify that the rate shall be based upon the average yield during the preceding fiscal year on interest bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity (average yield is rounded to nearest one-eighth percent); and (2) provide that the rate shall not be raised or lowered more than one-quarter of 1 percent for any year. The Treasury Department calculated the specified average yield to be 8.52 percent. The rate of 8½ percent shall be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

Dated: December 17, 1991.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–1859 Filed 1–24–92; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Advisory Commission of the San Francisco Maritime National Historical Park; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Advisory Commission of the San Francisco Maritime National Historical Park will be held from 10 a.m. to 12 noon and 2 p.m. to 4 p.m. (PST) on Thursday, February 20, 1992 aboard the Liberty ship SS. *Jeremiah O'Brien,* which is moored at Pier 3, Fort Mason, San Francisco, California. The Advisory Commission was established for a period of ten years by Public Law 100–348 to provide advice on the management and development of the park.

The main agenda items at this public meeting will be the development of Commission goals, the maintenance of the historic ships, familiarization with the *Jeremiah O'Brien,* and the use of the Haslett Warehouse.

The meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval by the Commission. Upon approval, a transcript will be available by contacting the Superintendent, San Francisco Maritime National Historical Park, Fort Mason, Building E, Second Floor, San Francisco, California 94123.

Dated: January 17, 1992.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 92–1908 Filed 1–24–92; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of Meeting

SUMMARY: This notice sets forth calendar year 1992 meeting dates of the Upper Delaware Citizens Advisory Council, as required under the Federal Advisory Committee Act.

Dates	Type of meeting	Inclement weather reschedule date
January 24, 1992	Organizational.	February 14, 1992.
March 27, 1992	Educational	April 10, 1992.
April 24, 1992	Business	None.
May 29, 1992	Educational	None.
June 26, 1992	Business	None.
July 24, 1992	Educational	None.
August 28, 1992	Business	None.
September 25, 1992	Educational	None.
October 23, 1992	Business	None.
November 20, 1992	Educational	December 4, 1992.
December 11, 1992	Business	January 8, 1993.

Press Releases containing specific information regarding the subject of each monthly meeting will be published in the following area newspapers: The Sullivan County Democrat, The Times Herald Record, The River Reporter, The Tri-state Gazette, The Pike County Dispatch, The Wayne Independent, The Hawley News Eagle.

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION, CONTACT: John T. Hutzky, Superintendent; Upeer Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Lorraine Mintzmyer,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92–1907 Filed 1–24–92; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Directed Service Order No. 1511–A]

Chicago Central & Pacific Railroad Co.—Directed Service—Cedar Valley Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order No. 1511–A vacates Directed Service Order No. 1511, as supplemented.

SUMMARY: Directed Service Order No. 1511, as supplemented, authorized Chicago Central & Pacific Railroad Company (CCP) to operate, pursuant to 49 U.S.C. 11125(a) and without Federal subsidy or other Federal compensation, over tracks of the Cedar Valley Railroad Company (CVR) until 11:59 p.m., January 30, 1992. Directed Service Order No.

1511–A vacates Directed Service Order No. 1511, as supplemented.

EFFECTIVE DATE: This order shall become effective at 11:59 p.m., on January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Bernard Gaillard (202) 927–5500 or Melvin F. Clemens, Jr. (202) 927–5553. (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Directed Service Order No. 1511, as supplemented and pursuant to 49 U.S.C. 11125 without subsidy or other Federal compensation, authorized CCP to operate over lines of the CVR as a directed rail carrier until January 30, 1992. By letter dated January 2, 1992, CCP indicated that its subsidiary, Cedar River Railroad Company (CRR), has completed acquisition of CVR and has commenced operations as authorized by the Commission in Finance Docket Nos. 31958 and 31959.

The Commission has certified that the emergency which prompted entry of the original order in this proceeding no longer exists, and that the order may be vacated.

To purchase a copy of the decision, write to, call or pick up a copy in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359.

Decided: January 17, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–1881 Filed 1–24–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Existing Collection in Use Without an OMB Control Number

(1) Victims of Crime Act, Crime Victim Compensation Grant Program, Program Instruction and Application Kit: (1) Eligible State Payments Certification Form; (2) Eligibility Checklist; (3) and Certified Assurances.

(2) None. Office of Justice Programs.

(3) Annually.

(4) State or local governments. The information requested is necessary to confirm eligibility and to ensure compliance with statutory criteria for an annual compensation grant for the crime victims fund. The affected public includes up to 56 States and Territories administering the crime victim compensation provisions of the Victims of Crime Act.

(5) 56 annual responses at 2 hours per response.

(6) 112 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: January 22, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92–1873 Filed 1–24–92; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91–67; Exemption Application No. D–8603]

Individual Exemption Involving Merrill Lynch, Pierce, Fenner & Smith Inc.

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of technical corrections.

SUMMARY: This document contains a notice of technical corrections of PTE 91–67 (56 FR 57679, November 13, 1991). That exemption permits certain transactions in connection with purchases and sales of securities issued by a Merrill Lynch Mutual Fund if the conditions of the exemption are met. The technical corrections clarify: (1) The scope of the limitation on the relationship that a Merrill Lynch Distributor may have with respect to plan assets that are or could be invested in units of a qualified group trust within the meaning of Revenue Ruling 81–100, and (2) when the acknowledgement required under section III(b)(3) of the exemption must be executed.

EFFECTIVE DATE: June 7, 1991.

FOR FURTHER INFORMATION CONTACT: Lyssa Hall of the Department, telephone (202) 523–8971 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 13, 1991, the Department published in the **Federal Register** (56 FR 57679) an individual exemption which, in general, permits certain transactions in connection with purchases and sales of securities issued by a Merrill Lynch Mutual Fund if certain conditions are met. In order to clarify the limitation on the relationship that the "Distributor" may have with respect to plan assets that are or could be invested in units of a qualified group trust within the meaning of Revenue Ruling 81–100 as described in section III(a)(3) of the exemption, the Department is adopting a technical correction to the exemption. This portion of the exemption could be interpreted to mean that the relief provided by the exemption is not available with respect to any transaction in which the Distributor has discretionary authority to acquire or dispose of the units of any Revenue Ruling 81–100 group trust. This was not the intent of the Department. As corrected, section III(a)(3) states that the Distributor can not be a fiduciary who is expressly authorized in writing to manage, acquire or dispose on a

discretionary basis of those assets of the plan that are or could be invested in securities issued by a Merrill Lynch Mutual Fund or in units of a qualified group trust within the meaning of Revenue Ruling 81–100 as to which the Distributor is a trustee.

In addition, the Department is adopting a technical correction to section III(b)(3) and (b)(4) of the exemption to clarify when the acknowledgement required by section III(b)(3) must be executed. Section III(b)(3) of the exemption could be interpreted to mean that the acknowledgement required by that section must be executed each time that the documents required to be provided pursuant to section III(b)(1) are received by the Independent Fiduciary. As corrected, section III(b)(3) states that the written acknowledgement is required to be executed following the initial receipt of documents which must be provided to the Independent Fiduciary as required in section III(b)(1). Section III(b)(4) has also been amended to accord with the correction to section III(b)(3). As corrected, section III(b)(4) clarifies that no change has been made to the requirement in that section that the Independent Fiduciary approve the specific transaction on behalf of the plan prior to the execution of the transaction.

Technical Correction

Section III(a)(3), (b)(3) & (b)(4) of PTE 91–67 (56 FR 57679) is hereby corrected to read as follows:

III. Specific Conditions

(a) The Distributor is not

* * * * *

(3) a fiduciary who is expressly authorized in writing to manage, acquire or dispose on a discretionary basis of those assets of the plan that are or could be invested in securities issued by a Merrill Lynch Mutual Fund or in units of a qualified group trust within the meaning of Revenue Ruling 81–100 as to which the Distributor is a trustee;

* * * * *

(b)(3) Following the initial receipt of the documents required to be provided to the Independent Fiduciary as described in paragraph (b)(1) of this section, and prior to the execution of the transaction, the Independent Fiduciary shall acknowledge in writing: * * *

(b)(4) Following execution of the acknowledgement required under paragraph (b)(3) of this section and prior to the execution of any transaction, the Independent Fiduciary approves the specific transaction on behalf of the Plan.

* * * * *

Signed at Washington, DC, this 22nd day of January, 1992.

Ivan L. Strasfeld,

Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–1879 Filed 1–24–92; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–8628, et al.]

Proposed Exemptions; The Wine Group Retirement Savings Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of the Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representatives.

The Wine Group Retirement Savings Plan (the Plan), Located in Ripon, California

[Exemption Application No. D–8628]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 19 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sales (the Sales) on January 9, 1991, and January 28, 1991, of interest in certain real estate partnerships (The Partnerships Interests) from the Plan to the Wine Group, Inc. (the Company), a party in interest with respect to the Plan; provided that the terms and conditions of the Sales were at least as favorable to the Plan as those obtainable in arm's

length transactions between unrelated parties, and further provided that the sales price was the greater of: (i) The Plan's aggregate cost of the acquisition and holding of the Partnership Interests or (ii) the fair market value of the Partnership Interests as determined by an independent evaluation at the time of the Sales.

EFFECTIVE DATE: This exemption, if granted, will be effective January 9, 1991.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing and 401(k) plan with approximately 120 participants and $3,227,516 in assets as of December 31, 1990. The Plan has three trustees (the Trustees), all of which are employees of the Company. Under the Plan and related Trust Agreement for the Plan, the Trustees are generally responsible for making investment decisions on behalf of the Plan.

2. In 1986, the Plan purchased interests in two real estate partnerships, the Liquidity Fund (the Liquidity Fund Interest) and Far West Savings CD Investors (the Far West Interest) (collectively, the Partnership Interests). The Plan paid $100,000 for the Liquidity Fund Interest and $108,000 for the Far West Interest.

3. In August 1990, the Plan committed to a changeover, effective January 1991, of its investment vehicle to Fidelity Investments (Fidelity). The applicant represents that the purpose of such changeover was to provide Plan participants with self directed accounts in which each participant will be able to choose from a variety of mutual funds offered by Fidelity. The applicant states the Partnership Interests are not publicly traded, are illiquid, and thus do not fit in with the new investment vehicle provided by Fidelity.

4. The applicant represents that, in order to comply with its commitment to change the Plan investments to Fidelity, the Plan sold the Partnership Interests to the Company in January of 1991. Specifically, on January 9, 1991, and January 28, 1991, the Plan sold the Liquidity Fund Interest and the Far West Interest to the Company for cash. In order to make the Plan whole, the company made additional payments to the Plan on June 6, 1991, with respect to the Liquidity Fund Sale and the Far West Interest Sale. The payments the Plan received from the Company with respect to the Liquidity Fund Sale and the Far West Interest Sale totaled $58,600 and $108,000, respectively. The applicant represents that during the time the Plan held the Partnership Interests, it received capital distributions totalling $41,400. The applicant represents that no commissions were paid with respect to the Sales. A summary of the above transaction is as follows:

	Liquidity Fund Interest	Far West Interest
Cost	$100,000	$108,000
Capital distributions	($41,400)	00
	$58,600	$108,000
Total company payment	($58,600)	($108,000)

5. The sale price of the Liquidity Fund Interest was at its fair market value, which at the time of the Sale was within a range of $55,000 to $59,000 based on a letter of evaluation dated December 31, 1990, from Sara M. Ronan, assistant vice president, Liquidity Fund Investment Corporation. The sale price of the Far West Interest was in excess of its fair market value, which at the time of the Sale was $105,265, based on a letter of evaluation dated January 15, 1991, from Tom M. McCue of Shearson Lehman Hutton. The Company further represents that the amount of any gain that may result from the eventual disposition of the Partnership Interests will be contributed back to the Plan.

6. In summary, the applicant represents that the transactions satisfy the terms and conditions of section 408(a) of the Act because: (a) The Plan received cash which represented the greater of the Plan's acquisition and holding costs with respect to the Partnership Interests or the fair market values, as determined by an independent third party, of the Partnership Interests at the time of the Sales; and (b) the Plan paid no commissions with respect to the Sales.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Anderson of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Englund Marine Supply Co. Employees' Profit Sharing Plan (the Plan), Located in Astoria, Oregon

[Application No. D-8727]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed provision of a line of credit (the Loans) by the Plan to Englund Marine Supply Company (the Employer), the sponsor of the Plan; provided that (a) the terms and conditions of such extension of credit are at least as favorable to the Plan as the Plan could obtain in dealing at arm's length with an unrelated party; (b) the Loans do not exceed the lesser of $400,000 or twenty five percent of the assets of the Plan at any time; (c) the Loans remain secured by a first lien on all of the Employer's inventory; (d) the value of the Loan security remains at least two hundred percent of the total outstanding balance of the Loans; (e) the Plan's interests for all purposes with respect to the Loan are represented by an independent fiduciary who will monitor and enforce all Loan terms on behalf of the Plan; and (f) the independent fiduciary must approve each Loan prior to the Loan being made.

Temporary Nature of Exemption: This exemption, if granted, shall be effective only for a period of seven years and shall apply only to loans which are originated and repaid within seven years commencing with the date on which the final exemption, if granted, is published in the **Federal Register**.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 33 participants and assets of $1,895,054 as of October 31, 1990. Investment discretion with respect to Plan assets is exercised exclusively by the Plan's sole trustee, John Englund (the Trustee), an officer and eighty percent shareholder of the Employer. The Employer is an Oregon private corporation engaged in sales of commercial and industrial marine supplies in Astoria, Oregon.

2. In the ordinary course of business the Employer has maintained a line of credit with the United States National Bank of Oregon (the Bank) in Astoria, Oregon, which the Employer has used primarily to obtain operating capital on an ongoing basis. For this line of credit, secured solely by the Employer's inventory, the Employer is charged a rate of interest at one percent above the Bank's prime lending rate. Because the Employer's ongoing need to borrow operating capital was considered a potential investment vehicle for the Plan's trust, the Trustee and the Employer obtained an individual administrative exemption in 1986 (PTS 86-71, 51 FR 21030, June 10, 1986) which permitted the provision of a line of credit by the Plan's trust to the Employer for a five-year period expiring June 10,

1991.[1] The Trustee and the Employer desire to renew the Plan's ability to make the Loans to the Employer. They are requesting an exemption to permit the renewal of the line of credit and its continuation for seven years under the terms and conditions described herein.

3. All terms of the Loans will be reflected in a credit agreement (the Agreement) which authorizes and governs the Loans over a seven-year period. The Loans will not exceed the lesser of $400,000 or twenty five percent of the Plan's assets at any time. All Loans will be fully repaid within seven years of the date this exemption, if granted, is published in the **Federal Register**. The Loans will bear interest at the rate of the Bank's prime lending rate plus two percent as of the date of each Loan. The interest rate will be adjusted annually to reflect the then-current prime lending rate of the Bank plus two percent. Additionally, the interest rate of any Loan may be set at a higher rate if such higher rate represents the prevailing fair market rate for such loans as determined by the Plan's independent fiduciary, described below. In no event will the interest rate of any Loan be less than 12 percent per annum. Each Loan will be repaid in equal quarterly payments of principal and interest, with outstanding principal amortized over the remainder of the Agreement's seven-year term, and all outstanding principal and interest to be repaid within 7 years of the date of grant of the exemption proposed herein. The Loans will be secured by a duly filed and perfected first security interest in all of the Employer's inventory (the Collateral). The Collateral located at the Employer's Astoria, Oregon facility, which is one of six Employer locations, was inspected and evaluated on October 16, 1991 by William Paschall (Paschall), president of the West-Line Marine Sales Co., Inc. Paschall represents that the Collateral at the Astoria location, constituting approximately 53 percent of the Employer's total inventory, was in marketable condition with a value of approximately $1,250,000. The Agreement requires that the value of the Collateral will remain at least two hundred percent of the outstanding balance of the Loans at all times during the seven-year period of the Loans.

4. The interests of the Plan with respect to the Loans will be represented by an independent fiduciary, Edward R. Hall, who has represented the Plan's interests over the past five years with respect to Loans under PTE 86–71. Hall is a tax attorney with substantial experience under the Act who represents that he is unrelated to an independent of the Employer. Hall represents that he has analyzed and evaluated the proposed renewal of the Plan's extension of credit to the Employer and has determined that the renewal and continuation of the Loans is in the best interests of the Plan's participants and beneficiaries for the following reasons: (a) The risk is minimal, due to the Employer's credit standing, its successful performance of Loan obligations under PTS 86–71 and the required loan-to-collateral ratio of 200 percent; (b) The Plan is assured a favorable and appropriate return by an interest rate of no less than the prevailing market rate; and (c) The potential total amount of the Loans will not threaten the liquidity of the Plan's assets, which are diversified among cash, stocks, bonds and notes. Hall's approval will be required of each individual Loan. Hall will represent the Plan for the duration of the Loans to monitor the Employer's compliance with all terms and conditions and to pursue appropriate remedies on behalf of the Plan in the event of default or deficiency of performance. Hall will periodically review and inspect the condition of the Collateral to ensure that the Plan's interests remain protected and to ensure that the value of the Collateral remains at least 200 percent of the outstanding balance of the Loans.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The interests of the Plan are represented by Hall, an independent fiduciary who has determined that the Loans will be in the best interests of the participants and beneficiaries of the Plan; (2) Hall's approval will be required of each individual Loan; (3) The Loans will remain secured by the Collateral with a value of at least 200 percent of the assets of the Plan at any time and Hall has determined that in making the Loans the Plans will remain appropriately liquid and diversified; and (5) the Loans will be repaid within seven years from the date of publication of this exemption, if granted.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Ophthalmic Associates, P.A. Employees' Money Purchase Pension Plan (the Ophthalmic Money Purchase Plan), Located in Lansdale, PA

[Application No. D–8737]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) shall not apply to the proposed sale by the Ophthalmic Money Purchase Plan to TJS Realty (the Ophthalmic Partnership), a party in interest, of a 50 percent tenant-in-common interest in certain improved real property (the Property), for the total cash consideration of $555,250, provided that (1) the amount paid for the interest is not less than fair market value as determined by an independent appraisal of the Property at the time the sale is consummated; and (2) the designated independent fiduciary approves of the subject transaction.

Preamble

On June 25, 1982, the Department granted Prohibited Transaction Exemption (PTE) 82–103 at 47 FR 27645. PTE 82–103 permitted the Ophthalmic Associates, P.A. Employees' Pension Plan (the Ophthalmic Pension Plan) and the Pearlstine-Salkin Associates Employees Pension Plan (the Pearlstine-Salkin Associates Employees Pension Plan (the Pearlstine Pension Plan) [2] to purchase, as tenants in common, 50 percent interests in a two story office building located at 1000 N. Broad Street, Lansdale, Pennsylvania from Ophthalmic Investors Associates (Ophthalmic Investors), a partnership formed by certain principals of Ophthalmic Associates (Ophthalmic), a professional medical corporation engaged in the practice of ophthalmology, and Pearlstine, Salkin, Hardison and Robinson (Pearlstine-Salkin), a professional corporation of attorneys which provides legal services to Ophthalmic and to the plans it has

[1] The trust involved in the transactions exemption under PTE 86–71 included another plan maintained by the Employer, the Englund Marine Supply Co., Inc. Employees' Pension Plan (the Pension Plan). The Trustee represents that the Pension Plan was terminated in 1989, that its assets were distributed and that the proposed transactions in the instant application will involve only the assets of the Plan.

[2] It is represented that none of the plans described herein is a party in interest with respect to the other within the meaning of section 3(14) of the Act.

sponsored. The sales price for the Property, as based upon its independently appraised value, was $900,000. On July 1, 1982, the Ophthalmic Pension Plan and the Pearlstine Pension Plan each made a cash downpayment of $100,000 to Ophthalmic Investors. Both plans took the Property subject to an existing mortgage in the original principal amount of $550,000 and an additional loan of $75,000 (the First Mortgage and the Addendum) which had been entered into by Ophthalmic Investors and an unrelated party. The First Mortgage and the Addendum carried interest rates of 6½ percent and 9½ percent, respectively, and matured on February 1, 1989. Such loans, which were secured by the Property, had a combined outstanding balance of $401,074 as of July 1, 1982.

Although the Ophthalmic and Pearlstine Pension Plans were not required to assume the obligations of Ophthalmic Investors pursuant to the First Mortgage and the Addendum, they were required to make loan payments. Both plans also entered into a second mortgage (the Second Mortgage) in the original principal amount of $298,926 with Ophthalmic Investors for the balance of the sales price. The Second Mortgage was to be repaid over a ten year period commencing on July 1, 1982 and ending on June 30, 1992 at an annual interest rate of 10½ percent. The Second Mortgage was also secured by the Property.

PTE 82-103 also permitted the leasing of the Property (the Lease) by the plans to Pearlstine-Salkin Ophthalmic Associated Investors (PSO), a party in interest. The Lease is a triple-net lease providing for an initial term of ten years which coincides with the duration of the Second Mortgage. The lease is intended to amortize the plans' obligations under the First Mortgage, the Addendum and the Second Mortgage through rental payments received such that the plans would own the Property free of any encumbrance at the termination of these loan obligations. PSO currently subleases the Property to Pearlstine-Salkin, Ophthalmic and CBS Optical, a party in interest. In the event of a default in rental payments, PTE 82-103 allows the plans to sell the Property to Ophthalmic Investors for the greater of its fair market value or the original $900,000 sales price and be absolved from their outstanding mortgage obligations.

To effectuate Ophthalmic's desire to terminate the Ophthalmic Pension Plan because of benefit restrictions imposed by the Tax Reform Act of 1986, the Department granted PTE 89-94 on October 31, 1989 at 54 FR 45187. PTE 89-94 permitted the unilateral and gratuitous transfer by the Ophthalmic Pension Plan to the Ophthalmic Money Purchase Plan of a 50 percent interest in the Property plus cash and the assumption by the Ophthalmic Money Purchase Plan of the pre-existing loan, lease and sublease obligations of the Ophthalmic Pension Plan. The value of the transferred benefit was $1,083,144. This amount also represented the value of the accrued benefits of four participants in the Ophthalmic Pension Plan who elected to have their benefits transferred to the Ophthalmic Money Purchase Plan.[3]

The applicants represent that payments due under the First Mortgage, Addendum and Second Mortgage have been timely made by the parties. On February 1, 1989, the applicants state that the First Mortgage and the Addendum were repaid in full. In addition, the applicants state that all rental payments under the Lease and Subleases have been timely paid and rental adjustments have been in compliance with Lease/Sublease terms.

The transactions that are subject to PTEs 82-103 and 89-94 are being monitored by the National Bank of Boyerton (the Bank) located in Boyerton, Pennsylvania. The Bank presently serves as the independent fiduciary on behalf of the Ophthalmic Money Purchase Plan and the Pearlstine-Salkin Associates Profit Sharing and Salary Savings Plan and Trust (the Pearlstine 401(k) Plan) which replaced the Pearlstine Pension Plan in 1985 and became the other holder of the 50 percent tenant-in-common interest in the Property.

As described below, the Ophthalmic Money Purchase Plan requests administrative exemptive relief from the Department in order to sell its 50 percent interest in the Property to a party in interest.

Summary of Facts and Representations

1. The Ophthalmic Money Purchase Plan is a defined contribution plan covering participants of Ophthalmic and CBS Optical. As of December 31, 1990, the Ophthalmic Money Purchase Plan had 27 participants and total assets of $2,670,096. The Trustees of the Ophthalmic Money Purchase Plan are Drs. Robert V. Connor, Louis Schwartz and Thaddeus S. Nowinski. These individuals are the principal shareholders of Ophthalmic. Investment decisions for the Ophthalmic Money Purchase Plan are made by the Trustees who have full investment discretion over the plan's assets.

2. Tentatively called "TJS Realty," the Ophthalmic Partnership will be a real estate partnership comprised of Drs. Schwartz and Norwinski and Dr. Joseph J. Kesselring, a principal of Ophthalmic. The Ophthalmic Partnership, which will be formed upon the granting of the exemptive relief that is described herein, will have an indefinite duration and it will occupy space in the office building which comprises the Property.

3. On May 10, 1990, the Board of Governors of Ophthalmic and CBS Optical (the Board), by unanimous consent, adopted and approved an amendment to the Ophthalmic Money Purchase Plan which provided that no new participants would be admitted, all participants would be 100 percent vested in their accrued benefits and no additional benefits would accrue. Presently, the Board intends to terminate the Ophthalmic Money Purchase Plan because its maintenance does not comport with the revised business objectives of Ophthalmic or CBS Optical. Once terminated, the assets of such plan will be liquidated and the benefits will be distributed to the participants.[4]

4. Accordingly, the Trustees request an administrative exemption from the Department to permit the Ophthalmic Money Purchase Plan to sell its 50 percent interest in the Property to the Ophthalmic Partnership for the independently appraised value of the interest. The Ophthalmic Money Purchase Plan will not be required to pay any real estate fees or commissions in connection with the proposed sale.[5] In addition, at the time of closing, Ophthalmic Investors will release the Ophthalmic Money Purchase Plan from any and all obligations under the Second Mortgage upon such plan's payment of its share of the outstanding indebtedness under the Second

[3] The applicants state that six participants actually elected to have their benefits transferred to the Ophthalmic Money Purchase Plan. Thus, the total transferred benefit was $1,385,780 and not $1,083,144.

[4] In this regard, the applicants represent that if the Ophthalmic Money Purchase Plan is terminated, participants will have the election to have annuities purchased on their behalf or to receive a lump sum distribution.

[5] After the proposed transaction is entered into, the Ophthalmic Partnership and the Pearlstine 401(k) Plan will each own 50 percent tenant-in-common interests in the Property. The applicants represent that the Ophthalmic Partnership is not a party in interest with respect to the Pearlstine 401(k) Plan. The applicants state that the only connection between the Ophthalmic Partnership and the Pearlstine 401(k) Plan is that Pearlstine-Salkin, which sponsors the Pearlstine 401(k) Plan also represents the Ophthalmic Partnership.

Mortgage. With the proceeds of the sale, the Ophthalmic Money Purchase Plan will be responsible for satisfying its proportionate interest in the Second Mortgage. Such obligation in the Second Mortgage was $31,032 as of November 12, 1991.

5. The Property has been appraised by Mr. Ken L. Steigelman, C.C.I.M, S.I.O.R, S.R.S., an independent appraiser from Line Lexington, Pennsylvania. In an appraisal report dated December 31, 1990, Mr. Steigelman has placed the fair market value of the Property at $1,110,500. In addition, Mr. Steigelman states that the termination of the Ophthalmic Money Purchase Plan has no effect on the valuation of the Property. Thus, based upon Mr. Steigelman's appraisal of the Property, which will be updated just prior to the proposed sale, the Ophthalmic Partnership will purchase the Ophthalmic Money Purchase Plan's 50 percent interest in the Property for $555,250.

6. The Bank represents that other than serving as an independent fiduciary for the transactions exempted in PTEs 82–103 and 89–94, it has no ownership, debt, familial or business relationships with either the principals of Ophthalmic or Pearlstine-Salkin. The Bank states that it represents a variety of accounts as executor of estates, advises plan trustees regarding the investment and/or administration of plan assets and the preparation of reports to the Internal Revenue Service or the Department. The Bank also states that it acknowledges its duties, responsibilities and liabilities in acting as a fiduciary with respect to the Ophthalmic Money Purchase Plan.

7. The Bank believes that the proposed sale of the 50 percent interest in the Property is in the best interest of the Ophthalmic Money Purchase Plan and its participants and beneficiaries because the market price and conditions are favorable to such plan. The Bank notes that the proceeds of the sale will be adequate to provide for participant and beneficiary distribution. Moreover, the Bank states that it has been appraised through Mr. Steigelman's appraisal that the sales price for the 50 percent interest reflects its fair market value. In this regard, the Bank asserts that Mr. Steigelman's use of the income, market and comparable sales approaches to valuation constitutes a "fair" valuation of the subject Property.

In formulating its views on the proposed transaction, the Bank states that it has examined the most recent financial statement for the Ophthalmic Money Purchase Plan, considered the liquidity requirements of such plan and examined the diversification of the assets of the Ophthalmic Money Purchase Plan in light of the sale. On the basis of this analysis, the Bank represents that the proposed transaction complies with the investment objectives and policies of the Ophthalmic Money Purchase Plan.

As the independent fiduciary, the Bank states that it will monitor the proposed transaction on behalf of the Ophthalmic Money Purchase Plan and, if necessary, take any appropriate actions to safeguard such plan and its participants and beneficiaries. In addition, the Bank states that it will continue to represent the interests of the Pearlstine 401(k) Plan, the other owner of the 50 percent interest in the Property, with respect to honoring its loan obligations under the Second Mortgage.

8. In summary, it is represented that the proposed transaction will satisfy the criteria for an administrative exemption under section 408(a) of the Act because: (a) The sale of the 50 percent interest by the Ophthalmic Money Purchase Plan to the Ophthalmic Partnership will be a one-time transaction for cash and will not result in the payment of real estate fees or commissions by the Ophthalmic Money Purchase Plan; (b) the fair market value of the Property, of which the 50 percent interest is derived, has been determined by Mr. Steigelman, a qualified, independent appraiser; (c) the Bank, as independent fiduciary, approves of the transaction and believes the sale is the best interest of the Ophthalmic Money Purchase Plan and its participants and beneficiaries; and (d) the sale of the 50 percent interest in the Property will allow the Trustees to terminate the Ophthalmic Money Purchase Plan and liquidate its assets.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Time Warner, Inc. (Time Warner), Located in New York, New York

[Application Nos. D–8779 through D–8783]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the past receipt of certain stock rights (the Rights) by employee benefit plans (the Plans) sponsored by Time Warner and its affiliates, pursuant to a stock rights offering (the Offering) by Time Warner to shareholders of record as of July 22, 1991, of Time Warner common stock (the Common Stock); and (2) the holding of the Rights by the Plans during the subscription period; provided that: (1) The Plans' acquisition and holding of the Rights resulted from an independent act of Time Warner as a corporate entity, and all holders of Common Stock were treated in a like manner, including the Plans; (2) With respect to the Savings Plans (described below), the Rights were acquired, held, and controlled by individual Plan participant accounts pursuant to Plan provisions for individually-directed investment of such accounts; and (3) With respect to the ESOPs and the DB Plans (described below), the authority for all decisions regarding the acquisition, holding and control of the Rights by such Plans was exercised by independent fiduciaries which made determinations as to whether and how the plans should exercise or sell the Rights acquired through the Offering.

EFFECTIVE DATE: This exemption, if granted, will be effective as of July 15, 1991.

Summary of Facts and Representations

1. The Plans consist of twenty one employee benefit plans maintained by Time Warner and its affiliates. The following sixteen Plans are defined benefit pension plans (the DB Plans) of which the trustee is Bankers Trust Company of New York (Bankers Trust):

Allied Records Union Pension Plan
American Television and Communications Corporation Pension Plan
Atlantic Recording Corporation Pension Plan
Ivy Hill Teamsters Union Pension Plan
Progressive Hourly Retirement Plan
Retirement Income Plan for Employees of Book-of-the-Month Club, Inc.
Southern Progress Salaried Retirement Plan
Sunset Publishing Corporation Pension Plan
Time Warner Employees' Pension Plan
Warner Bros. Pension Plan
Warner Bros. Union Pension Plan
Warner Cable Communications Pension Plan
Warner Cable Communications Union Pension Plan
Warner Publishing Pension Plan
WEA Manufacturing Pension Plan

Three of the Plans are defined contribution savings plans (the Savings Plans):

The Time Warner Employees' Savings Plan, a profit-sharing plan of which the trustee is Fidelity Management Trust Company of Boston;

The Time Warner Thrift Plan, a profit-sharing plan of which the trustee is Manufacturers Hanover Trust Company; and
The American Television and Communications Corporation Employees Stock Savings Plan (the ATC Savings Plan), an employee stock ownership plan of which the trustee is First Interstate Bank of Denver;

Two of the Plans are non-contributory employees' stock ownership plans (the ESOPs):

The WCI Employee Stock Ownership Plan (the PAYSOP), of which the trustee is Manufacturers Hanover Trust Company (MHTC); and
The Time Warner Employees' Stock Ownership Plan (the TESOP), of which the trustee is Citibank, N.A.

2. Time Warner is a Delaware public corporation with its corporate headquarters in New York, New York. As of June 30, 1991, there were issued and outstanding approximately 57,862,000 shares of Time Warner common stock (the Common Stock), of which approximately 2,618,000 shares, or 4.5 percent, were owned by the Plans. Time Warner represents that as of June 30, 1991 approximately 820,000 shares of Common Stock, or approximately 1.44 percent, were beneficially owned by executive officers and directors of Time Warner and that the remaining 94.06 percent of the Common Stock was owned by unrelated persons.

3. On June 6, 1991, Time Warner announced that it intended to distribute certain stock subscription rights (the Rights) to the holders of Common Stock. On July 15, 1991, Time Warner amended its announced offering plan (the Offering) for distribution of Rights. A registration statement filed by Time Warner with the Securities and Exchange Commission (the SEC) with respect to the Rights and the Offering was declared effective on July 15, 1991, with an expiration date of August 5, 1991.

Pursuant to the Offering, Rights were distributed to holders of Common Stock at the rate of six-tenths of a Right per share of Common Stock held as of July 22, 1991. Approximately 34,500,000 Rights were distributed, and an equal number of new shares of Common Stock was issued in connection with the Offering. Time Warner represents that the Rights were separate securities under Federal securities laws and were traded on the New York Stock Exchange (NYSE) and the Pacific Stock Exchange (together, the Exchanges). Trading of the Rights on the Exchanges commenced on a "when issued" basis on July 15, 1991, upon issuance of the Rights, and regular trading of the Rights on the Exchanges commenced July 23, 1991 upon distribution of the Rights certificates. Unexercised Rights expired at 5 p.m. on August 5, 1991.

Each Right entitled the holder thereof to purchase one share of Common Stock at the stated exercise price of $80.00 per share (the Basic Privilege) and to subscribe, at the same price, for the shares underlying and unexercised Rights (the Oversubscription Privilege). The exercises of the Rights were irrevocable. The Offering specified that if the requests for exercise of Oversubscription Privileges exceeded the number of available shares of Common Stock, the available Common Stock would be allocated among the requesting oversubscribers in proportion to the number of Common Stock shares purchased by each requesting oversubscriber in exercise of the Basic Privilege. A Right holder exercising the Oversubscription Privilege was required, at the time of exercise, to pay the exercise price for the shares requested and if the oversubscription exercise could not be satisfied in full, the unapplied portion of the exercise payment was returned after the expiration of the Offering.

4. The responses of the Plans to the Offering, and the provisions in the Plans' documents addressing the acquisition or disposition of securities such as the Rights, are summarized as follows:

(a) The Savings Plans: Each of the Savings Plans permits participants to direct the investment of their Plan accounts into selected investment funds, including in all cases a Common Stock fund, except that amounts attributable to employer matching contributions must be invested in employer stock. Among the Savings Plans, only the Time Warner Thrift Plan has a provision specifically addressing the acquisition of distributed stock rights. The Time Warner Thrift Plan provisions required such rights to be sold and the proceeds reinvested in the Plan's Company Stock Fund and allocated to the respective Plan accounts. With respect to the other Savings Plans, Time Warner represents that the trustees permitted each affected participant to direct the relevant Plan trustee either to sell the Rights credited to his account on the open market or to exercise those Rights, and that all necessary Plan and trust amendments to enable this direction were made. Time Warner represents that participants of the Savings Plans, other than the Time Warner Thrift Plan, were able to direct the respective institutional trustees as to the manner of disposition of the Rights credited to their Plan accounts. For those participants who elected to exercise the Rights credited to their accounts, the exercise price was obtained by liquidating their interest in other Plan investment funds. Time Warner represents that participants of the Savings Plans, other than the Time Warner Thrift Plan, were permitted to make their elections during an election period commencing on the date the Rights were distributed and ending six business days before the expiration date of the Offering. The election forms permitted participants to direct the relevant trustee whether, and to what extent, to sell the Rights on the open market or to exercise the Rights. Failure to respond during the election period or an invalid response resulted in the Rights being sold on the open market. Time Warner represents that the participant-directed election with respect to the Rights was specifically offered in such manner as to ensure that participants should have the same rights as other Common Stock holders.

Time Warner represents that because of the ATC Savings Plan's particular investment funds and administrative capabilities, the proceeds of any directed investment liquidations in that Plan could be made available with sufficient certainty only if participant instructions to the trustee were received by July 24. Time Warner represents that in order to give the ATC Savings Plan participants additional time, until 5 p.m. on July 26, for directions to the trustee with respect to their Rights, Time Warner loaned the ATC Savings Plan (the ATC Loan) the amount of cash which was needed to enable timely exercise of the Rights by ATC Savings Plan participants, but was not available because previous investment liquidation transactions had not been settled. Time Warner represents that the ATC Loan satisfied the requirements of class exemption PTE 80-26 (45 FR 28545, April 29, 1980) and was therefore exempt from the prohibitions of section 406 of the Act.[6]

Because Rights were received with respect to the nonvested portions of participants' employer contribution accounts, Time Warner represents that the Savings Plans were amended as follows: If the Rights issued to a participant's employer contribution account were sold at the direction of the participant, the proceeds were reinvested in employer stock and, like the remainder of the employer contribution account, continued to be subject to the Plan's vesting schedule. If such Rights were exercised at the direction of the participant, the new

[6] In this proposed exemption, the Department expresses no opinion as to whether the ATC Loan satisfied the requirements of PTE 80-26.

shares of Common Stock received were credited to the participant's employee contribution account and were fully vested to the extent that the exercise price was drawn from the employee contribution account. Time Warner represents that these provisions were adopted to ensure full vesting for new Common Stock shares acquired by payment of an exercise price drawn from a participant's employee contribution account.

(b) The ESOPs:

(i) The PAYSOP had no provision specifically addressing the treatment of stock distributions such as the Rights. The Plan is frozen and 100 percent invested in Common Stock. Time Warner represents that the determination of how to deal with the PAYSOP's Rights was made solely by the PAYSOP's trustee, MHTC. MHTC represents that it acted as an independent, discretionary fiduciary on behalf of the PAYSOP in connection with the Offering, with sole authority to determine whether and how to exercise or sell the Rights acquired by the PAYSOP, and that MHTC is not in control of, controlled by, nor under common control with Time Warner. MHTC represents that at the time of the Offering the PAYSOP was almost fully invested in Common Stock and had insufficient cash with which to exercise the Rights. MHTC states that although it had the authority to raise cash by borrowing funds or selling Common Stock, it chose not to do so. MHTC represents that it determined that the interests of the participants and beneficiaries of the PAYSOP would be best served by selling the PAYSOP's Rights, and that such Rights were sold on the open market.

(ii) The TESOP provided for a trustee directed by an investment committee comprised of individuals appointed by Time Warner. Time Warner represents that the TESOP was amended to permit the decision with respect to the TESOP's Rights to be made by an independent fiduciary. Accordingly, State Street Bank and Trust Company of New York (State Street) was appointed as co-trustee of the TESOP solely responsible for making any decision with respect to the Rights issued to the TESOP. State Street represents that it had sole authority for determining whether to sell or to exercise the Rights and, if it deemed appropriate, whether to borrow funds for the purpose of exercising the Rights. After consideration of a report prepared by a professional evaluator, State Street represents that it determined that it was in the best interests of the participants and beneficiaries of the TESOP to exercise the Basic Privileges and, to the extent possible, the Oversubscription Privileges with respect to the Rights issued to the TESOP. Accordingly, State Street represents that it negotiated the terms of a "leveraged ESOP" loan from Time Warner (the TESOP Loan),[7] to enable the exercise of the Rights on behalf of the TESOP. The proceeds of such exercise were divided according to the following formula, which State Street negotiated and approved on behalf of the TESOP as part of the TESOP Loan agreement:

(i) Allocated shares: Existing accounts of TESOP participants were immediately allocated a number of Common Stock shares having a total value equal to the amount which the TESOP would have realized had it sold the Rights during the Offering. For this purpose, the price at which the Rights could have been sold was deemed to be the average trading price of Rights on the NYSE for the period beginning on July 15 and ending on July 31 and the Common Stock value was deemed to be the average trading price of Common Stock on the NYSE for the period beginning on July 16 and ending on August 5, 1991.

(ii) Unallocated shares: All remaining shares of Common Stock acquired by exercise of the Rights are held in a suspense account of the TESOP to be allocated to accounts of TESOP participants as the TESOP Loan is repaid.

(c) The DB Plans: The DB Plans participate in a master trust (the Trust) of which Bankers Trust is the master trustee. Bankers Trust represents that the determination of whether and how to sell or to exercise the Rights was directed by an independent registered investment advisor (the Advisor) retained specifically for that purpose by Bankers Trust. Bankers' Trust appointed the firm of Fayez Sarofim & Co. of Houston, Texas as the Advisor, which represents that it is not control of, controlled by, nor under common control with Time Warner. The Advisor represents that it had sole authority to determine whether and how to exercise or sell the Rights acquired by the Trust. The Advisor represents that it determined that it was in the best interests of the participants and beneficiaries of the DB Plans to exercise the Rights acquired by the Trust. Accordingly, the Advisor caused the Trust's Rights to be exercised and the Advisor represents that the exercise price for the Common Stock was paid with existing Trust assets.

5. In summary, the applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act for the following reasons: (1) The Plans' acquisition and holding of the Rights resulted from an independent act of Time Warner as a corporate entity, and all holders of Common Stock were treated in a like manner, including the Plans; (2) With respect to the Savings Plans, the Rights were acquired, held, and controlled by individual Plan participant accounts pursuant to Plan provisions for individually-directed investment of such accounts; and (3) With respect to the ESOPs and the DB Plans, the authority for all decisions regarding the acquisition, holding and control of the Rights by such Plans was exercised by independent fiduciaries which made determinations as to whether and how the Plans should exercise or sell the Rights acquired through the Offering.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

McPheters and Richardson, P.C., Profit Sharing Plan (the Plan), Located in New York, NY

[Application No. D-8760]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) shall not apply to a proposed series of loans (the Loans) over a five year period to McPheters and Richardson, P.C. (the Employer) by the individually-directed accounts (the Accounts) in the Plan of Messrs. R. Douglas McPheters and Ambrose M. Richardson in the cumulative amount of: (1) The lesser of $50,000 of each Account; or (2) 25 percent of the assets of each Account. The proposed exemption is conditioned on the following requirements: (a) The terms

[7] The applicant represents that the TESOP Loan satisfied the requirements of section 408(b)(3) of the Act and applicable regulations relating to loans to ESOPs, and was exempt, therefore, from the prohibited transactions provisions of the Act and the Code. In this proposed exemption, the Department expresses no opinion as to whether the TESOP Loan satisfied the requirements of section 408(b)(3) of the Act, or whether such Loan resulted in any prohibited transactions.

and conditions of the Loans are not less favorable to the Accounts than those obtainable in arm's length transactions with an unrelated party; (b) the Loans are secured by first lien interests in all of the accounts receivable (the Receivables) of the Employer; (c) for purposes of securing each individual Loan, only those Receivables that are less than 120 days old are utilized as actual collateral; (d) the interest rate for the Loans is two percentage points greater than the rate charged the Employer by Citibank, N.A. (Citibank) for a similar lending arrangement; (e) before a Loan is made from their respective Account, Messrs. McPheters or Richardson must approve the disbursement; (f) at all times, the fair market value of the Receivables must represent at least 200 percent of the outstanding balance of the Loans made by each Account or Messrs. McPheters or Richardson will require that the Employer pledge additional collateral or prepay the Loans; and (g) the only accounts in the Plan that will be affected by the Loans are those of Messrs. McPheters and Richardson.

Temporary Nature of Exemption: This proposed exemption is temporary in nature and, if granted, will expire five years from the date of the grant. Subsequent to the expiration of the exemption, the Accounts may continue to hold any Loan provided such Loan is made during the five year period of the exemption.

Summary of Facts and Representations

1. The Plan is a profit sharing plan providing for participant-directed investments. As of June 28, 1991, the Plan had six participants, two of whom are Messrs. McPheters and Richardson. Also as of June 28, 1991, the Plan had total assets of $424,245. Of these total assets, the McPheters Account and the Richardson Account held assets of $333,245 and $56,409, respectively. The trustee of the Plan is Mr. McPheters. The Plan is maintained as a prototype plan by Smith, Barney Harris Upham and Company of New York, New York.

2. The Employer, a professional corporation incorporated under the laws of the State of New York, is engaged in the practice of corporate and securities law. Messrs. McPheters and Richardson are the sole shareholders of the Employer. They are also the Employer's only officers and directors. All matters relating to the operation, management and administration of the Employer are controlled exclusively by Messrs. McPheters and Richardson.

3. At present, the Employer has a line of credit arrangement with Citibank, an unrelated entity, which permits loans of up to $99,000. The interest rate for the line of credit is one percent above Citibank's base rate.[8] There is also a one percent loan origination fee which is payable to Citibank, annually. The line of credit is secured by the personal guarantees of Messrs. McPheters and Richardson.

4. Messrs. McPheters and Richardson request an administrative exemption from the Department in order to allow their Accounts in the Plan to make recurring loans to the Employer over a five year period. The Employer proposes to use the loaned funds for its general business purposes. Accordingly, it is proposed that no Loan will be made to the Employer which will cause the aggregate amount of all Loans from either the McPheters Account or the Richardson Account to exceed the lesser of: (a) $50,000, at any time outstanding, or (b) 25 percent of the balance of the Account.

5. The Loans will have durations of one, three or six months. Each Loan will be evidenced by a promissory note that will require the payment of principal and interest. Such payments will be made by the Employer on a monthly basis for Loans having durations of one month or three months and quarterly for Loans having durations of six months. The Loans will bear interest at the rate of 2 percent above the base rate of Citibank in effect on the date of their making. In addition, the Loans will require that the Employer pay a loan origination fee of one percent to the respective Account. Although the Employer may prepay the unpaid principal amount of a Loan prior to the maturity date, a prepayment penalty of 2 percent on the amount so prepaid will be assessed by either McPheters or Richardson on behalf of their respective Accounts.

Prior to the making of a Loan by either Account, Mr. McPheters or Mr. Richardson will verify that the interest rate to be charged is 2 percent above Citibank's base rate and certify that the terms of the Loan are arm's length and appropriate for the respective Account.

6. All of the Employer's accounts receivables will be pledged as security for the proposed Loans. However, for purposes of securing individual Loans made by either the McPheters Account or the Richardson Account, only those Receivables that are under 120 days old will by utilized as actual collateral. The Accounts will receive first priority interests in such collateral.

To document the Accounts' security interest in the Receivables, the Employer will file UCC financing statements with the appropriate state authority. At all times throughout the duration of the Loans, the fair market value of the Employer's Receivables will represent 200 percent of the outstanding principal balance of the Loans. In the event the fair market value of the Receivables should ever fall below the 200 percent level, Mr. McPheters, in the case of the McPheters Account or Mr. Richardson, in the case of the Richardson Account, will either require that the Employer pledge additional collateral or prepay the Loans.

7. Mahoney Cohen and Company, P.C. (MCC) of New York, New York has valued the Employer's Receivables. MCC represents that it has been engaged in the practice of public accounting since 1969 and that it serves a diverse clientele that includes law firms primarily in the New York metropolitan area. MCC represents that it offers a complete range of services to its clients which include auditing, accounting, tax, personal financial planning and management consulting. MCC further states that it derives less than one percent of its fees from accounting services rendered to the Employer.

MCC explains that the Employer's Receivables result from invoices rendered to clients of the law firm for the performance of legal services and from disbursements and other charges (e.g., copying, messenger, computerized legal research) associated with such services. MCC also asserts that the Employer maintains contemporaneous time and disbursement records and other charges which are accumulated and billed to the firm's clients typically on a monthly basis. MCC explains that invoices rendered to clients of the Employer are payable upon receipt.

In an audit report dated October 21, 1991, MCC represents that it has audited the Receivables of the Employer as of August 9, 1991. Using generally accepted auditing standards and accounting principles, MCC placed the fair market value of the Receivables, net of an allowance for doubtful accounts, at $166,320 as of August 9, 1991. Of the total Receivables, MCC determined that a balance of $134,679 represented Receivables that were not more than 120 days old and a balance of $31,641 represented Receivables that were over 120 days old.

8. In summary, it represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Loans will represent the lesser of $50,000 but, in no event, more than 25

[8] According to the applicant, Citibank's base rate is the functional equivalent of its prime rate.

percent of the assets that are held in either the McPheters Account or the Richardson Account; (b) the Loans will be secured by first lien interests in all of the Employer's Receivables; (c) for purposes of securing each individual Loan, only those Receivables that are less than 120 days old will be utilized as actual collateral; (d) the interest rate for the Loans will be two percentage points greater than the rate charged the Employer by Citibank for a similar lending arrangement; (e) before a Loan is made from their respective Account, Messrs. McPheters or Richardson must approve the disbursement; (f) at all times, the fair market value of the Receivables will represent at least 200 percent of the outstanding balance of the Loans made by each Account, and if the fair market value of the Receivables should ever fall below this level, Messrs. McPheters or Richardson will require that the Employer pledge additional collateral or prepay the Loans; and (g) the only accounts in the Plan that will be affected by the Loans are those of Messrs. McPheters and Richardson who desire that the proposed transactions be consummated.

Notice to Interested Persons

Because Messrs. McPheters and Richardson are the sole participants in the Plan whose accounts will be affected by the proposed transactions, the Department has determined that there is no need to distribute the notice of pendency to interested persons. Therefore, comments and requests for a hearing must be received by the Department within 30 days of the date of publication in the **Federal Register** of this notice of proposed exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 22nd day of January, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-1880 Filed 1-24-92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-05]

NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Advisory Committee.

DATES: Febraury 6, 1992, 8:30 a.m. to 5:30 p.m. and February 7, 1992, 8:30 a.m. to 10:30 a.m. (to be held at Rocketdyne Facility); and February 7, 1992, 1 p.m. to 4 p.m. (to be held at McDonnell Douglas).

ADDRESSES: Rocketdyne, 8900 DeSoto Ave., Canoga Park, CA 91303; and McDonnell Douglas Space Systems Company, 5301 Bolsa Ave., Huntington Beach, CA 92647.

FOR FURTHER INFORMATION CONTACT: Dr. W. P. Raney, Code M-8, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-4165.

SUPPLEMENTARY INFORMATION: The Space Station Advisory Committee (SSAC) is a standing committee of the NASA Advisory Council, which advises senior management on all Agency activities. The SSAC is an interdisciplinary group charged to advise Agency management on the development, operation, and utilization of the Space Station. The committee is chaired by Mr. John E. Miller and is composed of 10 members including individuals who also serve on other NASA advisory committees.

This meeting will be open to the public up to the seating capacity of the room (which is approximately 30 persons including committee members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

Type of Meeting: Open.

Agenda

February 6, 1992

8:30 a.m.—Chairman's Remarks.
9:30 a.m.—Office of Space Systems Development.
10 a.m.—Program Status.
11 a.m.—Discussion.
1 p.m.—Tour Space Power Electronics Laboratory (SPEL).
3 p.m.—Space Station Advisory Committee Panel Reports.
4 p.m.—Discussion.
5:30 p.m.—Adjourn.

February 7, 1992

8:30 a.m.—Space Station Advisory Committee Panel Reports.
9:30 a.m.—Work Plans.
10 a.m.—Membership Discussion.
10:30 a.m.—Travel to Huntington Beach, CA.
1 p.m.—Tour McDonnell Douglas Facility.
3 p.m.—Discussion.
4 p.m.—Adjourn.

Dated: January 21, 1992.

John W. Gaff,

Advisory Committee, Management Officer.

[FR Doc. 92-1882 Filed 1-24-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-06]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, (Pub. L. 92-463), as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee.

DATES: February 12, 1992, 8:30 a.m. to 5:30 p.m.; February 13, 1992, 8:30 a.m. to 5:30 p.m.; and February 14, 1992, 8:30 a.m. to 3 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 600 Independence Avenue, SW., room 226, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Committee will meet to discuss the OSSA program status, Fiscal Year 1993 budget overviews, the Committee's agenda for 1992-93, Research and Analysis (R&A) program, Earth Observing System status, and the 1992 OSSA Strategic Plan. The Committee is chaired by Dr. Berrien Moore and is composed of 25 members. The meeting will be open to the public up to the capacity of the room (approximately 50 persons including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Wednesday, February 12
- 8:30 a.m.—Committee Business.
- 8:45 a.m.—OSSA Status Report and FY 1993 Budget Overview.
- 1:15 p.m.—SSAAC Agenda for 1992-93 and the State of the R&A Program.
- 3:45 p.m.—Congressional Perspectives on FY 1993.
- 5:30 p.m.—Adjourn.

Thursday, February 13
- 8:30 a.m.—Committee Business.
- 8:45 a.m.—Office of Exploration Briefing.
- 9:45 a.m.—Earth Observing System Program Status.
- 11:05 a.m.—OSSA Implications of the Former Deputy Administrator's Recommendations.
- 11:35 a.m.—R&A Issues.
- 1:15 p.m.—1992 OSSA Strategic Plan.
- 1:45 p.m.—Subcommittee Reports.
- 3:45 p.m.—Congressional Perspectives on FY 1993.
- 5:30 p.m.—Adjourn.

Friday, February 14
- 8:30 a.m.—Writing Group Work Sessions.
- 11 a.m.—Committee Discussion of Writing Group Material.
- 1 p.m.—Committee Discussion with the Associate Administrator.
- 3 p.m.—Adjourn.

January 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-1883 Filed 1-24-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-07]

NASA Advisory Council (NAC), Commercial Programs Advisory Committee (CPAC): Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Commercial Programs Advisory Committee.

DATES: February 5, 1992, 8:30 a.m. to 2:30 p.m.

ADDRESSES: Orbital Sciences Corporation, Suite 350, The Board Room, 12500 Fair Lakes Circle, Fairfax, VA 22033.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Stone, Office of Commercial Programs, National Aeronautics and Space Administration, Washington, DC 20546, 703/271-5500.

SUPPLEMENTARY INFORMATION: The Commercial Programs Advisory Committee provides counsel on the overall NASA program supporting the commercial development of space, both relevant policies and program scope and content. The Committee is chaired by Mr. James K. Baker and is currently composed of 15 members.

The meeting will be closed to the public from 12:15 p.m. to 2:30 p.m. for a discussion of the qualifications of additional candidates for membership of the Committee. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. Prior to the closed session, the meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Committee members and other participants). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

Agenda

February 5, 1992

- 8:30 a.m.—Welcome/Introduction of Members.
- 8:50 a.m.—Commercial Programs Update.
- 11 a.m.—Commercial Programs Advisory Committee, Centers for the Commercial Development of Space Report Status.
- 11:30 a.m.—Member Discussion.
- 12:15 p.m.—Closed Session.
- 2:30 p.m.—Adjourn.

Dated: January 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-1884 Filed 1-24-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Prescreening #3 Section)) to the National Council on the Arts will be held on February 12, 1992 from 9 a.m.-6:30 p.m. and February 13 from 9 a.m.-6 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by

grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-1871 Filed 1-24-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

Consumers Power Co., Palisades Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-20 issued to Consumers Power Company (the licensee) for operation of the Palisades Plant, located in Convert, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would change the maximum enrichment specified in new fuel storage Technical Specification (TS) 5.4.1 to an assembly planar average of 4.20 weight percent (w/o) U-235 for fuel assemblies with 216 UO_2, Gd_2O_3-UO_2 fuel rods or metal rods. In TS 5.4.2.c, the maximum enrichment for fuel stored in the Region I (NUS) spent fuel storage racks would be increased to an assembly planar average U-235 enrichment of 4.40 w/o. A sentence would also be added which requires spent fuel assemblies having enrichment above 3.27 w/o U-235 to contain 216 UO_2, Gd_2O_3-UO_2 or solid metal rods. TS 5.4.2.e, which specifies the maximum w/o U-235 in the spent fuel stored in the spent fuel pool without regard to the regions in the pool, would be deleted.

The proposed action is in accordance with the licensee's application for amendment dated October 28, 1991, as supplemented by letter dated January 20, 1992.

The Need for the Proposed Action

The proposed changes are needed so that the licensee can use higher fuel enrichment to provide the flexibility of extending the fuel irradiation and to permit operation for longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions allow the fresh fuel storage racks to accommodate fuel assemblies enriched to 4.20 w/o U-235 with 216 UO_2, Gd_2O_3-UO_2 fuel rods or metal rods. The Region I (NUS) spent fuel storage racks are approved to accommodate fuel assemblies enriched to 4.40 w/o U-235 provided that fuel assemblies having enrichment above 3.27 w/o U-235 contain 216 UO_2, Gd_2O_3-UO_2 or solid metal rods.

The licensee has made a commitment not to remove any spent fuel racks from the spent fuel pool until analyses confirm that the k-eff resulting from inadvertently dropping a 4.40 w/o fuel assembly into the space vacated by the rack does not exceed 0.95.

Although the Palisades TS have been modified to specify the above-mentioned fuel as acceptable for storage in the fresh or spent fuel racks, evaluations of reload core designs (using any enrichment) will, of course, be performed on a cycle by cycle basis as part of the reload safety evaluation process. Each reload design is evaluated to confirm that the cycle core design adheres to the limits that exist in the accident analyses and TS to ensure that reactor operation is acceptable. The higher enrichment may slightly change the mix of fission products that might be released in the event of a serious accident, but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts of reactor operation with higher enrichment and extended irradiation, the proposed changes to the TS involve systems located within the restricted area, as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact.

The environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation were published and discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988, and published in the **Federal Register** (53 FR 30355) on August 11, 1988. As indicated therein, the environmental cost contribution of the proposed increase in the fuel enrichment and irradiation limits are either unchanged or may, in fact, be reduced from those summarized in table S-4 as set forth in 10 CFR 51.52(c).

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any other alternative would have equal or greater environmental impacts and need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impact of plant operations and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to operation of the Palisades Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the application for amendment dated October 28, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

For the Nuclear Regulatory Commission.

Edmund J. Sullivan, Jr.,

Acting Director, Project Directorate III-I, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2019 Filed 1-24-92; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program; Final Amendments

January 14, 1992.

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of final amendments to the Columbia River Basin Fish and Wildlife Program (measures for anadromous fish, phase two).

SUMMARY: Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has adopted final amendments to the Columbia River Basin Fish and Wildlife Program (program). The Amendments constitute major changes to the salmon and steelhead provisions of the program, emphasizing mainstream passage improvements, harvest management, a rebuilding schedule and biological objectives for Snake River fall chinook, and other matters. Copies of the amendments, the Council's responses to comments received in the amendment process, and findings on amendment recommendations that the Council did not adopt, are available on request. See "**FOR FURTHER INFORMATION**", below.

BACKGROUND: The final amendments are the culmination of the second phase of a four-phase process to amend the Columbia River Basin Fish and Wildlife Program (program). Phase one, in which priority habitat and production amendments and responses to comments were adopted, was completed in August, 1991. Phase two amendments were adopted on December 11, 1991, and a response to comments and findings on amendment recommendations that the Council did not adopt was approved. Phase three of the process, which addresses major production and habitat issues, system planning (including a framework for program planning, implementation, monitoring, evaluation, and research), biological objectives and rebuilding schedules for various stocks, and related issues, will be completed by mid-August 1992. Phase four, to address resident fish and wildlife, would begin in September, 1992.

The second phase of the process began on August 9, 1991, when the Council received recommendations from fish and wildlife agencies, Indian tribes, and others, for measures to protect, mitigate and enhance anadromous fish affected by the development and operation of hydroelectric facilities in the Columbia River Basin. On September 26, based on its review of the recommendations and comments received on them, the Council proposed a series of amendments to the program, to be circulated for public comment. The Council received written comment on the proposed amendments, and on the recommendations submitted on August 9, through October 25, 1991. Hearings were held on the proposed amendments, and on recommendations submitted on August 9, on October 15 in Kennewick, Washington; October 15, in Boise, Idaho; October 17, in Lewiston, Idaho; October 21, in Kalispell, Montana; October 21 in Longview, Washington; and on October 23, in Portland, Oregon. The Council adopted final amendments and approved responses to comments and findings on recommendations on December 11, 1991.

FOR FURTHER INFORMATION: For copies of the final amendments to the Columbia Basin Fish and Wildlife Program (Phase Two) (request document no. 91-31), the Columbia Basin Fish and Wildlife Program Salmon and Steelhead Amendments: Phase Two Response to Comments (which includes findings on amendment recommendations that the Council did not adopt) (request document no. 91-33), or other information, contract the Council's Public Affairs Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222-5161, toll free 1-800-222-3355.

Edward W. Sheets,

Executive Director.

[FR Doc. 92-1831 Filed 1-24-92; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30268; File No. SR-CBOE-91-47]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Submission of Certain Sale Transactions Reports to the Price Reporter

January 21, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE submits to the Commission, pursuant to rule 19b-4(e),[1] a proposed rule change clarifying that CBOE members are not obligated to report sell transactions in certain Standard & Poor's 500 ("S&P") stock index option classes to price reporters, pursuant to Interpretation .01 of CBOE Rule 6.51, in instances where the sale is executed by an Electronic Book ("EBook") [2] on the Exchange. The Exchange has codified this rule change in Regulatory Circular RG91-66 which has been distributed to Exchange members.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 17 CFR 240.19b-4(e) (1990).

[2] The Ebook automates all order book support and execution functions, *i.e.*, the filing, sorting, executing, fill reporting, price reporting, and inputting to trade-match of away from the market limit orders and pre-opening market orders placed with the Order Book Official. EBook lowers costs, reduces trade-match errors and improves service by automatically reporting both trade execution to the originating branch and price reporting to vendors

rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the CBOE submission is to notify the Commission of modifications to Exchange procedure with regard to the reporting of sale transactions to the price reporter. Commencing December 10, 1991, the Exchange is expanding the function of the Ebook in certain option classes to include automatic price reporting. Specifically, trades executed with the Ebook will be reported directly by the Ebook for transactions in the following Ebook eligible index options: The S&P 500 ("SPX"), Wrap Around S&P 500 ("SPZ"),[3] Long-Term S&P 500 ("SPL"), Reduced Value Long-Term S&P 500s ("LSW" and "LSX"), and Capped S&P 500 ("CPS"). In order to avoid duplicative reporting of transactions in these options because of the reporting made via the Ebook, the Exchange has determined that CBOE members are not obligated to report sell transactions in these options in instances where the sale is executed by Ebook. Initially, sale tickets will be collected by Exchange staff at the end of the day. Pursuant to Exchange Rule 6.51 and Interpretation .01 thereunder, members will continue to be required to submit immediately all reports of sale transactions not executed with the Ebook to price reporters.

(2) Basis

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

[3] The SPZ provides wrap-around strike prices for the SPX. If a large enough move occurs, such as October 1987, 200 points of different strike prices may occur. As a result of the large number of strike prices, the Exchange will run out of letters to bring up the SPX strikes necessitating the different symbol for certain SPX strikes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the CBOE, namely Interpretation .01 to CBOE Rule 6.51, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by February 18, 1992.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–1885 Filed 1–24–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18491; 812–7730]

Bull & Bear Overseas Fund Ltd. et al.; Notice of Application

January 17, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Bull & Bear Overseas Fund Ltd. ("Overseas"), Bull & Bear Equity-Income Fund (Equity-Income"), Bull & Bear International Advisers, Inc. ("International Advisers"), Bull & Bear Equity Advisers, Inc. ("Equity Advisers"), and Bull & Bear Group, Inc. ("Group") (collectively "Applicants").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act exempting applicants from section 17(a) of the Act, and under section 17(d) of the Act of rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order under section 17(b) exempting them from section 17(a) and under section 17(d) of the Act and rule 17d–1 to permit Overseas to acquire substantially all of the assets of Equity-Income for shares of Overseas.

FILING DATE: The application was filed on May 17, 1991 and amended on December 13, 1991. By letter dated January 17, 1992, counsel for applicants stated that an amendment to the application would be filed during the notice period, the substance of which is reflected herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 14, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, 11 Hanover Square, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Thomas G. Sheehan, Senior Staff Attorney, at (202) 272–7324, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Overseas and Equity-Income each are open-end management investment companies incorporated in Maryland and Delaware, respectively, and registered under the Act. (Equity-Income and Overseas are referred to herein as the "Funds.")

2. International Advisers is the investment manager of Overseas and, as of January 10, 1992, beneficially owns 10.6% of the common stock of Overseas. Equity Advisers is the investment manager of Equity-Income. Group is a Delaware corporation which owns 100% of the outstanding stock of both International Advisers and Equity Advisers.

3. Subject to and contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding common stock of Equity-Income, Overseas proposes to acquire substantially all of the assets of Equity-Income in exchange solely for shares of Overseas and the assumption by Overseas of the liabilities of Equity-Income.

4. Overseas and Equity-Income have entered into an Agreement and Plan of Reorganization and Liquidation (the "Plan") that was unanimously approved by the boards of directors of each Fund, including the disinterested directors of each Fund, on December 12, 1991. The board of directors of each Fund based its decision to approve the reorganization on a number of factors, including: (a) The relative past growth in assets and investment performance of both Funds; (b) the future prospects for each of the Funds, both under circumstances where they are not reorganized and if the reorganization is affected; (c) the compatibility of the objectives, policies and restrictions of Equity-Income and Overseas; (d) the effect of the reorganization on the expense ratios of the Funds; (e) the costs of the reorganization to the Funds; (f) whether any future cost savings could be achieved by combining the Funds; (g) the tax-free nature of the reorganization; (h) alternatives to the reorganization; and (i) the actual and potential benefits to the Funds' affiliates, including International Advisers and Equity Advisers and their parent, Group.

5. It is presently contemplated that the Plan will be submitted for approval to the shareholders of Equity-Income during a meeting to be held in the first quarter of 1992, and that a prospectus/proxy statement comparing the two Funds and describing the proposed reorganization and reasons therefor will be sent to shareholders of Equity-Income in January 1992. At the same time, a proxy statement will be sent to the shareholders of Overseas requesting their approval of, among other things, a change in Overseas' fundamental investment objective. Assuming that the required shareholder votes are obtained at the shareholders' meetings, the closing date is expected to occur shortly thereafter.

6. Under the Plan, the number of full and fractional shares of Overseas to be issued to shareholders of Equity-Income will be determined on the basis of net asset values, by dividing the net asset value of Equity-Income's assets and liabilities by the net asset value of a share of Overseas. The Plan is intended to be a plan of reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code under which no gain or loss would be recognized by Equity-Income, Overseas, or their shareholders. Applicants represent that except for the *status quo*, alternatives to the proposed reorganization, including liquidation, would not be tax-free.

7. Although the Plan provides that any of its provisions may be waived, amended, modified or supplemented by mutual written agreement of the parties, applicants agree (a) to not make any material changes to the Plan that affect the application without prior approval of SEC staff; and (b) to not waive, amend, or modify any provision of the Plan that is required by state or federal law to effect the reorganization.

8. Equity-Income and Overseas have identical distribution arrangements. Each Fund also has adopted a plan of distribution pursuant to rule 12b–1 under the Act. Under these distribution plans, each Fund may reimburse the Distributor in an amount up to one percent per annum of the Fund's average daily net assets for expenditures by the Distributor which are primarily intended to result in the sale of that Fund's shares. No change to Overseas' rule 12b–1 plan, the surviving plan in the reorganization, will be made in connection with the reorganization.

9. Under both Equity-Income's and Overseas' rule 12b–1 plans, the Distributor may from time to time incur expenses in distributing shares of the fund in excess of the amount currently reimbursed by the Fund pursuant to its plan, which expenses may be reimbursed in the future. As of November 30, 1991, the Distributor had incurred approximately $177,000 of such expenses not yet reimbursed by Equity-Income, amounting to 1.81% of that Fund's net assets. In view of the staff's position that carryover distribution expenses terminate for the acquired investment company in a reorganization as of the date of the reorganization, neither the Distributor nor any other party will seek recovery of these expenses after the reorganization. As of November 30, 1991, the Distributor also had incurred approximately $203,000 in expenses not yet reimbursed by Overseas, amounting to 18.14% of that Fund's net assets, and to 1.86% of the combined fund's net assets on a *pro forma* basis. Because there is no requirement under the rule 12b–1 plans that the Distributor be reimbursed for all its expenses or any requirement that the plans be continued from year to year, these amounts have not been treated as a liability of the Funds.

10. Applicants represent that the reorganization is expected to enhance the long-term viability and performance of both Funds. Each Fund's shareholders should benefit from the reorganization because the expected increase in size of the combined fund, both immediately after the reorganization and through improved potential for future growth, may permit the combined fund to invest more effectively, achieve certain economies of scale, increase operating efficiency, and facilitate portfolio management.

11. Overseas and Equity-Income will each bear its own expenses in connection with the reorganization, including any common expenses which may be allocated to Overseas and Equity-Income in proportion to their respective net assets. However, International Advisers and Equity Advisers will bear a portion of the reorganization expenses that would cause Overseas or Equity-Income respectively to incur expenses in excess of the most restrictive expense limitation imposed by any state in which shares of the applicable Funds are qualified for sale. The expenses of Overseas currently exceed this state expense limit. The expenses of Equity-Income did not exceed the state expense limitation for the eleven months ending November 30, 1991, and the costs of the

reorganization are not presently expected to cause it to exceed this limit. Thus, it is estimated that the expenses of the reorganization, which are expected to total approximately $103,500, will be borne by International Advisers in the approximate amount of $20,900 (with Overseas bearing directly no expenses of the reorganization due to the state expense limitation), and Equity-Income in the approximate amount of $82,600. Equity Advisers is not expected to bear any of this amount unless the state expense limit for Equity-Income is exceeded.

12. Applicants represent that International Advisers and Group may receive some benefits from the reorganization. These include: (a) A higher effective investment management fee for Overseas as compared to Equity-Income; (b) the potential for the receipt of higher aggregate investment management fees if, as is hoped, the combined fund's assets grow faster than would be the case for the two Funds in the absence of the reorganization; (c) the likelihood that, after the reorganization and the resulting increase in Overseas' net assets, the investment manager would no longer be required to reimburse Overseas pursuant to state expense limitations; and (d) the possibility that economies with respect to distribution costs might be realized in the larger combined fund so that, to the extent that expenditures by the Distributor in a given year amount to less than 1.0% of the combined fund's net assets, the Distributor may be able to recover Overseas' unreimbursed rule 12b-1 expenses over a shorter period of time. Applicants further note, however, that the potential benefits to International Advisers and Group will be diminished because (a) the investment managers and Group will bear a substantial portion of the direct and indirect costs of the reorganization portion of the expenses of the reorganization; (b) any increase in the management fee payable to International Advisers will be offset by a proposed sub-advisory contract which requires International Advisers to pay Banque Worms Management Corporation 40% of its investment management fees; and (c) the Distributor, a subsidiary of Group and an affiliate of Investment Advisers, has agreed not to seek recovery of past distribution expenses, amounting to approximately $177,000 as of November 30, 1991.

13. In light of the foregoing, applicants consequently believe, and the directors of each Fund (including the disinterested directors) have found, that any potential benefits to the investment managers and to Group resulting from the reorganization are on balance outweighed by the commitments of the investment managers to bear a portion of the reorganization expenses and the potential benefits of the reorganization to Equity-Income and Overseas and their shareholders.

Applicants' Legal Analysis

1. Overseas and Equity-Income have investment advisers that are under "common control" within the meaning of section 2(a)(9) of the Act. In addition, Overseas is an "affiliated person" of International Advisers within the meaning of section 2(a)(3)(B) because International Advisers beneficially owns 5% or more of the shares of Overseas. Because of these relationships, the proposed reorganizations may be prohibited by section 17(a) of the Act, which generally prohibits the sale of securities or property to a registered investment company by an affiliated person of an affiliated person of such company.

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. The proposed reorganization would be exempt from the provisions of section 17(a) by virtue of rule 17a-8 but for the fact that International Advisers beneficially owns 5% or more of the outstanding shares of Overseas and Group wholly owns the investment advisers for both funds.

3. Section 17(b) of the Act provides that, notwithstanding section 17(a), any person may file an application for an order exempting a proposed transaction and the SEC shall grant such order if evidence establishes that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Applicants submit that the Plan meets these standards for relief.

Condition to the Relief

Applicants agree to the grant of the order requested herein being specifically subject to the following condition:

The directors of each Fund, including a majority of the directors who are not interested persons of the Funds, have determined, after considering the relevant factors, that participation in the reorganization is in the best interests of each Fund and that the interests of existing shareholders of each Fund will not be diluted as a result of the reorganization. These findings and the bases therefor have been recorded fully in the minutes of both boards.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-1843 Filed 1-24-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25456]

Filings Under the Public Utility Holding Company Act of 1935 "(Act")

January 17, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 10, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corp., et al. (70-7918)

Central and South West Corporation ("CSW"), a registered holding company, and three of its nonutility subsidiaries, CSW Energy, Inc. ("Energy"), CSW

Development-I, Inc. "(Energy Sub"), each located at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, and ARK/CSW Development Partnership (the "Joint Venture"), located at 23293 South Pointe Drive, Laguna Hills, California 92653 (collectively, "Applicants"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 43, 45, 50(a)(5), 51, 86, 87, 90 and 91 thereunder.

The Applicants seek authority to acquire indirectly, through subsidiaries to be formed, a 122.2 megawatt, approximately $140 million, gas-fired cogeneration facility (the "Project"). Once operational, the Project, located near Bartow in Polk County, Florida, would be a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978.

The Applicants propose to create a new subsidiary, Polk Power Partners, L.P. (the "Partnership"), which would be a Delaware limited partnership, to own and operate the Project. The Applicants propose to organize and acquire for $1,000 all of the common stock, no par value, of a new subsidiary ("JV Sub"), which would be the sole general partner of the Partnership. JV Sub will be a wholly owned subsidiary of Joint Venture, a Delaware general partnership owned equally by Energy Sub and ARK Energy, Inc. ("ARK"), a nonassociate corporation. It will be a Delaware corporation and will have 1% interest in the Partnership. The two limited partners will be Energy Sub and ARK. They would each hold a 49.5% interest in the Partnership.

CSW, Energy, Energy Sub and Joint Venture seek the approval of the Commission to make capital contributions to Partnership in the amount of $2 million for Partnership to (i) pay $500,000 due to the seller of the Project at the closing of sale in order to acquire the seller's rights, title and interest in and to the Project and (ii) pay up $1.5 million to acquire the Project site and easements and for related real estate and title matters. CSW, Energy, Energy Sub and the Joint Venture seek the approval of the Commission to make capital contributions in the amount of $9 million for capital contributions to the Partnership. JV Sub, Energy Sub and ARK would each make an initial capital contribution of approximately $1,000 in relative proportion to their respective partnership interests. Energy Sub and ARK would then each make capital contributions of up to $9 million to the Partnership. JV Sub will contribute work product and management services for its interest.

The power from the Project will be sold to Tampa Electric Company ("TECO") and Florida Power Corporation ("FPC"). TECO and FPC are nonassociate Florida electric-utility corporations. It is anticipated that a small portion of the excess energy generated by the Project will be sold to the steam host and the balance will be sold to FPC on an "as available" basis.

The Applicants propose that the Partnership borrow approximately $120 million for use in constructing and developing the project by entering into a credit facility with a lending institution or a syndicate of lending institutions to be determined ("Construction Financing"). It is anticipated that the Construction Financing would include the issuance of letters of credit to transportation and fuel suppliers which would replace other letters of credit to these suppliers. The Construction Financing is to be converted to, or refinanced by, a term loan facility ("Term Loan Financing") with a lender or group of lenders upon the completion of the Project (expected to occur prior to April 12, 1994). It is anticipated that the terms of the Construction Financing and the Term Loan Financing would be up to 15 years. The interest cost to the Partnership for the Construction Financing and the Term Loan Financing will not exceed 12% per annum. Commitment fees payable to lenders under the Construction Financing and the Term Loan Financing will not exceed 1.5% of the loan amount. The Applicants request an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereof for the Construction Financing and the Term Loan Financing.

Lenders may require the Partnership and/or the partners to provide some assurance for the $18 million equity of the project in the form of an equity support agreement or letter of credit ("Equity LOC"). Fees payable to the issuer for Equity LOCs would not exceed 1% per annum of the face amount of the Equity Support LOC and the interest rate payable per annum on unreimbursed drawings under the Equity LOC would not exceed the prime rate plus four percentage points.

The Applications propose to procure an irrevocable standby letter of credit ("CFGC LOC") in favor of Central Florida Gas Company ("CFGC"), the Project's fuel transportation provider, in the amount of approximately $800,000, which would obligate one of the Applicants, or an associate to be named, to reimburse the bank issuing the CFGC LOC, on demand, for the amount drawn. The CFGC LOC would support payment obligations under the fuel transportation contract with CFGC (Fuel Services Contract"). The CFGC LOC would be issued for renewable, five year terms for the duration of the Fuel services Contract. The fees payable to the issuer of the CFGC LOC would not exceed 1% per annum of its face amount. The interest rate payable per annum on unreimbursed drawings under the CFGC LOC would not exceed the prime rate plus four percentage points.

The Partnership seeks authorization to enter into a construction agreement with Energy or Energy Sub for the purpose of developing and constructing the Project. It is expected that Energy or Energy Sub would provide general construction management and oversight services and would subcontract with other nonassociate construction and engineering firms and equipment vendors to provide the design, construction and engineering services and project equipment.

Entergy Corporation, et al. (70–7925)

Entergy Corporation ("Entergy"), a registered holding company, 225 Baronne Street, New Orleans, Louisiana 70112 and its wholly owned public-utility subsidiary company, Mississippi Power & Light Company ("MP&L"), P O Box 1640, Jackson, Mississippi 39215 have filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and Rule 43 thereunder.

MP&L proposes to issue and sell from time to time through December 31, 1993, and Entergy proposes to acquire, an aggregate of up to 2,173,914 additional shares of MP&L's common stock ("Additional Shares"), no par value, for an aggregate consideration not to exceed $50,000,022.

MP&L expects to use the proceeds from such sales for the redemption, prior to maturity, of all or a potion of MP&L's First Mortgage Bonds, 10⅞% Series due 2005, or for the repayment of short-term indebtedness incurred for that purpose Alternatively, all or a portion of such proceeds may be used by MP&L for the financing, in part, of the possible redemption, purchase, or other

acquisition of all or a portion of certain other outstanding series of MP&L's first mortgage bonds, general and refunding mortgage bonds, pollution control revenues bonds and preferred stock; for its construction program; and for other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-1842 Filed 1-24-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS-109, implemented by Regulation ER-1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 91-10-57, the Department established the currently effective SFRL adjustments.

We will resume issuing SFRL updates on a two-month cycle as we did up until June 1985, rather than every six months as we have been doing since. In Order 85-6-43, June 13, 1985, we concluded that two-month updates were no longer warranted in light of a stabilization in overall cost trends. Recent experience suggests, however, that use of a bi-monthly cycle will be more reflective of current industry conditions. Of course, the bi-monthly SFRLs issued here supplant those issued earlier in Order 91-10-57.

In establishing the SFRL for the two-month period beginning December 1, 1991, we have projected non-fuel costs based on the year ended September 30, 1991 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 92-1-32 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic	1.3308
Western Hemisphere	1.1294
Pacific	1.4771

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation: January 17, 1992.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-1853 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Advisory Commission on Conferences in Ocean Shipping; Open Meeting

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of open meeting of the Advisory Commission on Conferences in Ocean Shipping.

SUMMARY: The Commission will be holding a meeting in Washington, DC on Wednesday and Thursday, February 12-13, 1992; the meeting is open to the public. The Commission plans to determine the recommendations and conclusions to be included in its report to the President and Congress.

DATES: Meeting: Wednesday and Thursday, February 12-13, 1992; 9:30 a.m. to 5:30 p.m. EST.

ADDRESSES: The address for the public meeting is Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC, room 10234.

FOR FURTHER INFORMATION CONTACT: Florizelle B. Liser, Executive Director; telephone (202) 366-9781; FAX (202) 366-7870.

SUPPLEMENTARY INFORMATION: The Commission was created by the Shipping Act of 1984 to conduct an independent and comprehensive study of conferences in ocean shipping, particularly whether the Nation would be best served by prohibiting conferences, or by closed or open conferences. The Commission is to provide its report, including recommendations, to the President and the Congress by April 10, 1992. After holding five field hearings around the country during the summer, the Commission began the deliberative stage of its work in October. At this meeting, the Commissioners will on both days determine the recommendations and conclusions for inclusion in its report to the President and Congress.

Issued in Washington, DC on January 17, 1992.

Florizelle B. Liser,

Executive Director.

[FR Doc. 92-1839 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

[Docket No. 91-63; No. 2]

Blue Bird Body Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Blue Bird Body Company (Blue Bird) of Fort Valley, Georgia, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that its noncompliance with Safety Standard No. 106 is inconsequential as it relates to motor vehicle safety.

Notice of receipt of a petition was published on December 5, 1991, and an opportunity afforded for comment (56 FR 63755).

Based on information provided by the Weatherhead Division of Dana Corporation, Blue Bird determined that certain air brake hoses installed in approximately 11,150 buses do not comply with the adhesion requirements of S7.3.7 of Federal Motor Vehicle Safety Standard No. 106, "Brake Hoses." Section S7.3.7 requires that, except for hose reinforced by wire, an air brake hose shall withstand a tensile force of eight pounds per inch of length before separation of adjacent layers.

Blue Bird supported its petition with the following:

1. Blue Bird Body Company is not aware of any accidents, complaints or warranty issues related to the use of these hoses.

2. Its application of the hoses is non-vacuum in nature and the arguments set forth by Weatherhead, Navistar, Mack and White GMC Volvo are applicable to its products.

3. It is Blue Bird belief that the installation of the suspect Weatherhead hoses on its buses is consistent with industry standards and installations covered in the petitions filed by the previously mentioned component and truck manufacturers. Therefore, Blue Bird Body Company should be granted the same relief as the other petitioners.

No comments were received on the petition.

At the time the petitioner filed its petition, the petitions by two other users of the Dana Weatherhead hose, Navistar International and Mack Trucks, Inc., were still under consideration. These petitions were granted on October 11, 1991 (56 FR 51440) on the basis of the following arguments:

1. The end use of the hoses was such that they were subject to pressure, not vacuum applications.

2. If the hoses were used in vacuum applications, their crimped end fittings make it unlikely that air would become trapped between the layers of the hose.

3. If there is any permeation of air from the inner tube, the hoses are designed to release it through the pinpricked outer layer.

The petitioner uses the Weatherhead hoses in pressure applications. NHTSA understands the petitioner represents that the outer layer of the hoses is pinpricked and that the hoses are equipped with the same crimped end fittings as the Weatherhead hoses. Thus the same factors exist in this case as in the previous petitions which were granted.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 16, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-1875 Filed 1-24-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: January 17, 1992

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0205.
Form Number: IRS Form 5452.
Type of Review: Resubmission.
Title: Corporate Report of Nondividend Distributions.

Description: Form 5452 is used by corporations to report their nontaxable distributions as requested by Internal Revenue Code (IRC) section 6042(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 1,700.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—19 hours, 51 minutes
Learning about the law or the form—1 hour, 20 minutes
Preparing the form—3 hours, 35 minutes
Copying, assembling and sending the form to IRS—32 minutes

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 43,010 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-1838 Filed 1-24-92; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

Statement of Position on Execution of New Powers of Attorney Due to Merger, Consolidation or Similar Transaction of Customs Broker, and Obtaining New Broker's License in Certain Situations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Statement of position.

SUMMARY: When Customs brokers merge, consolidate or engage in other transactions where the surviving broker is a different legal entity than the predecessor broker, the surviving broker must obtain powers of attorney in its name from the clients of the predecessor broker before conducting Customs business on their behalf; however, there is no such requirement if the power of attorney granted to the predecessor broker specifically provides that it is transferable to a Customs broker which is the predecessor broker's legal successor in interest. Customs will not take broker compliance action under 19 U.S.C. 1641, in connection with the execution of new powers of attorney, provided that the clients of the predecessor broker are notified of the proposed merger, consolidation or other transaction prior to its effective date, and the new powers of attorney are executed in favor of and are retained by the surviving broker within thirty (30) days of the effective date of the transaction, unless additional time is requested and is granted by Customs within the thirty (30) day period. In the case of mergers, consolidations or other transactions which occurred prior to the date of this Notice, the new powers of attorney must be executed and retained within thirty (30) days of the date of this Notice, unless additional time is requested and is granted by Customs within the thirty (30) day period.

When an entity which does not hold a Customs broker's license engages in a merger, consolidation or other transaction with a Customs broker and the surviving entity is a different legal entity than the broker, the surviving entity must obtain a Customs broker's license and powers of attorney in its name before conducting Customs business except on its own behalf.

EFFECTIVE DATE: January 27, 1992.

FOR FURTHER INFORMATION CONTACT: Robert W. Page, Chief, Entry Compliance Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., room 1313, Washington, DC 20229, (202) 566-5307.

SUPPLEMENTARY INFORMATION: 19 U.S.C. 1641 provides that the Secretary of the Treasury may prescribe rules and regulations relating to the licensing of Customs brokers, the keeping of books, records, and other documents, and the imposition of penalties resulting from the violation of those rules and regulations. 19 CFR 141.46 requires that Customs brokers obtain powers of attorney from their principals before transacting Customs business on their behalf, and that the powers of attorney must be retained with the brokers' books and papers. Specific penalties for the failure to retain powers of attorney are provided for in 19 CFR 171, App. C, V, E.

In HQ Ruling 223119 (August 26, 1991), Customs held that the Customs broker's license and powers of attorney held by a wholly owned subsidiary were not transferable to its parent corporation when the subsidiary was absorbed by the parent corporation in a merger. Customs also held that the surviving corporate entity had to obtain a Customs broker's license in its name and new powers of attorney in its name from the clients of the subsidiary corporation. In Customs Legal Determination No. 82-0048, issued April 5, 1982, Customs held that when a parent Customs broker corporation dissolves a subsidiary Customs broker corporation, the powers of attorney

issued to the subsidiary are not transferable to the parent corporation. Customs maintains the same position when brokers which are not parent and subsidiary corporations merge, consolidate or engage in other transactions where the surviving broker is a different legal entity than the predecessor broker to whom the powers of attorney in question were issued.

Importers generally grant powers of attorney to Customs brokers on the basis of the importer's trust and confidence in the broker's skill, judgment and discretion. Mergers, consolidations and other transactions may result in changes of circumstances which affect the importer's intent to transact business through the successor to the broker. This change of intent can occur whether the broker to whom the power of attorney is issued is a corporation, partnership, individual or other legal person. (However, Customs held in HQ Ruling 730666 (August 18, 1987) that it is not necessary to obtain new powers of attorney where a corporate broker merely undergoes a name change and there is no change in the corporate entity itself).

Customs recognizes that mergers, consolidations and other transactions in the brokerage industry may occur rapidly and involve many parties, and that obtaining new powers of attorney by the effective date of the transaction may be difficult or impracticable. This Notice gives affected persons, whether they be corporations, partnerships, individuals or other legal persons, a reasonable period of time in which to comply with the power of attorney requirements.

Samuel H. Banks,

Assistant Commissioner, Office of Commercial Operations.

[FR Doc. 92-1737 Filed 1-24-92; 8:45 am]

BILLING CODE 4820-02-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-86]

Termination of Section 302 Investigation: Intellectual Property Laws and Practices of the People's Republic of China and Revocation of Priority Foreign Country Designation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination of investigation under section 302 of the Trade Act of 1974, as amended, and revocation of priority foreign country identification under section 182(c)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988.

SUMMARY: The United States Trade Representative (USTR) has decided to terminate an investigation initiated under section 302 of the Trade Act of 1974 as amended (Trade Act) with respect to the intellectual property laws and practices of the People's Republic of China, having reached a satisfactory resolution of the issues under investigation.

In addition, USTR has decided to revoke China's identification as a priority foreign country under section 182 of the Trade Act, as amended, by section 1303 of the Omnibus Trade and Competitiveness Act of 1988 (1988 Act).

DATES: This investigation was terminated and China's identification as a priority foreign country revoked effective January 17, 1992.

FOR FURTHER INFORMATION CONTACT: Lee Sands, Director for China and Mongolia, at (202) 395-5050, or Catherine Field, Associate General Counsel, at (202) 395-3432, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: On May 26, 1991, pursuant to section 302(b)(2)(A) of the Trade Act, the United States Trade Representative initiated an investigation of those acts, policies and practices of the Government of China that were the basis for identification of China as a priority foreign country under section 182 of the 1988 Act. These included: (1) Deficiencies in China's patent law, in particular, the failure to provide product patent protection for chemicals, including pharmaceuticals and agricultural chemicals, (2) lack of copyright protection for U.S. works not first published in China, (3) deficient levels of protection under the copyright law and regulations, (4) inadequate protection of trade secrets, and (5) deficient enforcement of intellectual property rights, including rights in trademarks.

On January 17, the U.S. Government reached an agreement with the Chinese Government in which China agreed to make significant improvements in the protection of patents, copyrights, and trade secrets and also agreed to effectively enforce intellectual property rights. On the basis of the commitments contained in this agreement and in the expectation that these commitments will be fully implemented, the USTR has decided to terminate this investigation. In addition, pursuant to section 182(c)(1)(A) of the Trade Act, the USTR has decided that this information warrants revocation of China's identification as a priority foreign country.

The USTR will monitor China's compliance with this trade agreement and if, on the basis of this monitoring, the USTR considers that the China is not satisfactorily implementing the agreement, the USTR shall determine what further action to take.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 92-1852 Filed 1-24-92; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 17
Monday, January 27, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION:

TIME AND DATE: 10:00 a.m., Wednesday, January 29, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Choking Hazards Associated with Small Balls.

The staff will brief the Commission on options for action with regard to a rulemaking proceeding to address choking hazards associated with small balls.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, (301) 504-0800.

Dated: January 22, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-2057 Filed 1-23-92; 2:23 pm]

BILLING CODE 6355-01-M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 30, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report.

The staff will brief the Commission on various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504-0800.

Dated: January 22, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-2058 Filed 1-23-92; 8:45 am]

BILLING CODE 6355-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Notice

January 22, 1992.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: January 29, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

***Note.—Items listed on the agenda may be deleted without further notice.**

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not, include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 951st Meeting—January 29, 1992, Regular Meeting, (10:00 a.m.)

CAH-1.
Project No. 516-123, Lake Murray Docks, Inc. v. South Carolina Electric & Gas Company
CAH-2.
Project No. 10909-002, Kinderhook Hydro, Inc.
CAH-3.
Project No. 2368-002, Maine Public Service Company
CAH-4.
Project No. 11038-001, County of Arapahoe and Town of Parker, Colorado
CAH-5.
Project No. 596-004, Utah Power and Light Company
Project No. 4029-002, Utah Municipal Power Agency, *et al.*
Project No. 4040-001, Bountiful City, Utah
CAH-6.
Project No. 1984-045, Wisconsin River Power Company
CAH-7.
Project No. 3706-007, American Hydro Power Company
CAH-8.
Omitted
CAH-9.
Project No. 11007-001, Sullivan Island Associates
Project No. 11024-001, Robert and Barbara Sullivan
CAH-10.
Project No. 10846-001, Alpine Hydroelectric Company
CAH-11.
Omitted
CAH-12.
Omitted
CAH-13.
Project No. 4632-012, Clifton Power Corporation
CAH-14.
Project No. 10725-001, Little Horn Energy Wyoming, Inc,

Consent Agenda—Electric

CAE-1.
Docket No. ER92-218-000, Mississippi Power Company
CAE-2.
Docket No. ER92-33-000, Cincinnati Gas and Electric Company
CAE-3.
Docket No. EL91-44-000, Allegheny Electric Cooperative, Inc. v. Niagara Mohawk Power Corporation
Docket No. EL91-47-000, American Municipal Power-Ohio, Inc. and Connecticut Municipal Electric Energy Cooperative v. Niagara Mohawk Power Corporation
CAE-4.
Docket No. EL91-2-000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAE-5.
Docket No. ER86-562-004, Boston Edison Company
CAE-6.
Docket No. EL91-36-001, Massachusetts Municipal Wholesale Electric Company v. Northeast Utilities Service Company
CAE-7.
Docket No. AI92-1-001, Accounting Release No. AR-14
CAE-8.
Docket Nos. ER76-205-010 and ER79-150-018, Southern California Edison Company
CAE-9.
Docket Nos. ER90-527-000 and 005, Northern States Power Company

Consent Agenda—Oil and Gas

CAG-1.
Docket No. RP92-73-000, National Fuel Gas Supply Corporation
CAG-2.
Docket No. RP92-86-000, Mojave Pipeline Company
CAG-3.
Docket No. RP92-53-000, Kern River Gas Transmission Company
CAG-4.
Omitted
CAG-5.

Docket Nos. CP88-391-006, 007, and 008, Transcontinental Gas Pipe Line Corporation
CAG-6.
Docket No. RP92-76-000, National Fuel Gas Supply Corporation
CAG-7.
Docket Nos. TA92-1-17-000 and TM92-5-17-000, Texas Eastern Transmission Corporation
CAG-8.
Docket No. TA92-2-18-000, Texas Gas Transmission Corporation
CAG-9.
Docket No. TQ92-5-25-000, Mississippi River Transmission Corporation
CAG-10.
Docket Nos. TQ92-2-43-000 and TM92-5-43-000, Williams Natural Gas Company
CAG-11.
Docket Nos. RP90-137-001, 003 and RP91-56-000, Williston Basin Interstate Pipeline Company
CAG-12.
Docket Nos. RP92-16-001 and RP88-44-024, El Paso Natural Gas Company
CAG-13.
Omitted
CAG-14.
Docket Nos. TA92-1-32-000, 001, 002 and 003, Colorado Interstate Gas Company
CAG-15.
Docket Nos. TQ91-3-16-001, 003, TF91-11-16-001 and TQ92-3-16-000, National Fuel Gas Supply Corporation
CAG-16.
Docket Nos. RP83-137-030 and RP85-31-004, Transcontinental Gas Pipe Line Corporation
CAG-17.
Docket No. IS90-11-000, *et al.*, Amerada Hess Pipeline Corporation, *et al.*
CAG-18.
Docket No. RP91-141-000, Williston Basin Interstate Pipeline Company
CAG-19.
Docket No. RM87-5-009, Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines
CAG-20.
Docket No. RP91-128-002, Viking Gas Transmission Company
CAG-21.
Docket No. RP92-19-002, Transwestern Pipeline Company
CAG-22.
Docket No. RP85-202-008, Trunkline Gas Company
CAG-23.
Docket Nos. RP85-203-009 and RP88-203-008, Panhandle Eastern Pipe Line Company
CAG-24.
Docket No. CP82-487-037, Williston Basin Interstate Pipeline Company
CAG-25.
Docket Nos. RP92-25-002 and MT92-1-001, Iroquois Gas Transmission System, L.P.
CAG-26.
Docket Nos. RP92-3-001 and RP90-108-000, *et al.*, Columbia Gas Transmission Corporation
Docket Nos. RP92-2-001 and RP90-107-000, *et al.*, and RP91-161-003, *et al.*, Columbia Gulf Transmission Company
CAG-27.
Docket No. RP91-212-002, Stingray Pipeline Company
CAG-28.
Omitted
CAG-29.
Docket No. RP91-210-003, Tennessee Gas Pipeline Company
CAG-30.
Omitted
CAG-31.
Docket Nos. RP86-10-013 and 014, Williston Basin Interstate Pipeline Company
CAG-32.
Docket No. RP81-85-004, Truckline LNG Company
CAG-33.
Docket No. RP91-188-005, El Paso Natural Gas Company
CAG-34.
Docket No. RP92-18-001, El Paso Natural Gas Company
CAG-35.
Docket No. RP91-179-001, The Algonquin Customer Group v. Texas Eastern Transmission Corporation
Docket Nos. RP88-67-049, RP88-61-016, RP88-221-011, CP86-46-000, CP82-446-002, 003, 004, 005 and 007, Texas Eastern Transmission Corporation
CAG-36.
Docket No. TQ91-7-24-002, Equitrans, Inc.
CAG-37.
Omitted
CAG-38.
Docket No. CP91-2819-000, Transcontinental Gas Pipe Line Corporation
CAG-39.
Docket No. ST88-1-001, Arkansas Western Gas Company
CAG-40.
Omitted
CAG-41.
Docket No. RP90-143-006, CNG Transmission Corporation
CAG-42.
Docket No. PR91-6-000, KansOk Partnership
CAG-43.
Docket Nos. IS90-21-000, IS90-13-000, IS90-32-000, IS90-40-000, IS91-1-000, SP91-3-000, SP91-5-000, IS91-21-000, IS91-28-000, IS91-33-000 and IS92-19-000, Williams Pipeline Company
Docket Nos. IS90-39-000, IS91-3-000 and IS91-32-000, Enron Liquids Pipeline Company
CAG-44.
Docket No. SP92-9-000, Pre-Granted Special Permission for Oil Pipelines
CAG-45.
Omitted
CAG-46.
Docket No. ST92-1312-000, Seagull Shoreline System
CAG-47.
Docket No. GP92-4-000, Railroad Commission of Texas, Tight Formation Determination Texas-15 Addition 4, FERC No. JD92-02504T
CAG-48.
Docket No. GP91-9-000, Vernon E. Faulconer, Inc.
CAG-49.
Omitted
CAG-50.
Docket No. CI91-123-000, Omega Pipeline Company
Docket No. CI92-5-000, Westar Marketing Company
Docket No. CI92-6-000, HPL Gas Company
CAG-51.
Docket No. CP91-1798-001, Natural Gas Pipeline Company of America
CAG-52.
Docket No. CP88-34-001, Trunkline Gas Company
CAG-53.
Docket No. CP88-760-012, Transcontinental Gas Pipe Line Corporation
CAG-54.
Docket No. CP89-634-014, Iroquois Gas Transmission System, L.P.
CAG-55.
Docket Nos. CP88-171-010 and 012, Tennessee Gas Pipeline Company
CAG-56.
Docket No. CP81-428-001, Questar Pipeline Company
CAG-57.
Docket No. CP90-14-002, Transwestern Pipeline Company
CAG-58.
Docket No. CP89-2062-001, Overthrust Pipeline Company
CAG-59.
Docket No. CP92-260-000, Transcontinental Gas Pipe Line Corporation
CAG-60.
Docket No. CP92-287-000, Arkla Energy Resources, a division of Arkla, Inc.
CAG-61.
Docket No. CP91-2891-000, Granite State Gas Transmission, Inc.
CAG-62.
Docket No. CP91-501-000, Sabine Pipe Line Company
CAG-63.
Docket No. CP89-1-008, Mojave Pipeline Company
CAG-64.
Docket No. CP89-2048-006, Kern River Gas Transmission Company
CAG-65.
Docket No. CP87-146-001, West Lincoln Natural Gas District and Southern Natural Gas Company
CAG-66.
Docket No. CP91-1616-000, ANR Pipeline Company
Docket No. CP91-1634-000, Great Lakes Gas Transmission Limited Partnership
CAG-67.
Docket Nos. CP91-2340-000 and MG88-56-001, Ringwood Gathering Company
CAG-68.
Docket No. CP91-2938-000, National Fuel Gas Supply Corporation
CAG-69.
Docket Nos. CP88-171-011 and CP81-108-009, Tennessee Gas Pipeline Company
CAG-70.
Docket Nos. CP91-967-000 and 002, Northern Border Pipeline Company
Docket No. CP91-1071-000, Natural Gas Pipeline Company of America
CAG-71.
Docket Nos. CP91-2322-000, 002 and CP90-767-000, Paiute Pipeline Company

CAG–72.
Docket No. CP91–780–002, Northwest Pipeline Corporation
CAG–73.
Docket Nos. CP91–1580–000 and 001, Algonquin Gas Transmission Company and Texas Eastern Transmission Corporation
CAG–74.
Docket No. CP84–252–005, Trans-Appalachian Pipeline, Inc.
CAG–75.
Docket No. CP90–1478–000, Northern Border Pipeline Company
CAG–76.
Docket Nos. CP92–232–000 and MG88–18–003, Blue Dolphin Pipe Line Company
CAG–77.
Docket Nos. CP89–362–002 and CP89–363–002, North Country Gas Pipeline Corporation
CAG–78.
Docket Nos. RP92–81–000 and 001, Texas Eastern Transmission Corporation
CAG–79.
Docket No. RP92–84–000, Panhandle Eastern Pipe Line Company
Docket No. CP92–83–000, Trunkline Gas Company
CAG–80.
Docket No. RP92–72–000, Carnegie Natural Gas Company
CAG–81.
Docket No. RP92–75–000, Northern Natural Gas Company
CAG–82.
Docket Nos. CP92–240–001 and CP92–241–001, Mojave Pipeline Company and Kern River Gas Transmission Company

Hydro Agenda

H–1.
Omitted

Electric Agenda

E–1.
Docket Nos. ER90–373–002, ER90–374–002, and ER90–390–002, Northeast Utilities Service Company. Order on rehearing
E–2.
Docket Nos. EC90–10–004, ER90–143–004, ER90–144–004, ER90–145–004 and EL90–9–004, Northeast Utilities Service Company (Re Public Service of New Hampshire). Opinion on request for briefing.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
(A)
Docket No. MG88–02–004, Algonquin Gas Transmission Company
Docket No. MG88–44–003, ANR Pipeline Company
Docket Nos. MG88–20–003 and 004, Arkla Energy Resources, division of Arkla, Inc.
Docket No. MG90–06–002, Canyon Creek Compression Company
Docket Nos. MG89–04–004 and 005, Carnegie Natural Gas Company
Docket No. MG88–53–003, CNG Transmission Corporation
Docket No. MG88–45–003, Colorado Interstate Gas Company
Docket No. MG88–03–004, Florida Gas Transmission Company
Docket No. MG90–04–002, Midwestern Gas Transmission Corporation
Docket Nos. MG88–12–003 and 005, Mississippi River Transmission Corporation
Docket No. MG89–14–002, Moraine Pipeline Company
Docket No. MG88–31–003, Natural Gas Pipeline Company of America
Docket No. MG88–35–004, Northern Border Pipeline Company
Docket No. MG88–07–004, Northern Natural Gas Company
Docket No. MG88–55–004, Panhandle Eastern Pipeline Company
Docket No. MG88–15–003, Southern Natural Gas Company
Docket No. MG91–02–002, Southwest Gas Storage Company
Docket No. MG90–08–002, Stingray Pipeline Company
Docket No. MG88–19–004, Tennessee Gas Pipeline Company
Docket No. MG88–26–004, Texas Eastern Transmission Corporation
Docket No. MG88–47–003, Texas Gas Transmission Corporation
Docket No. MG90–07–002, Trailblazer Pipeline Company
Docket No. MG88–09–004, Transwestern Pipeline Company
Docket No. MG88–54–003, Trunkline Gas Company
Docket No. MG90–03–002, Trunkline LNG Company
Docket No. MG88–05–004, United Gas Pipe Line Company
Docket No. MG88–50–003, Williams Natural Gas Company. Order on rehearing and clarification concerning Order No. 497 filings.
(B)
Docket No. MG88–02–003, Algonquin Gas Transmission Company
Docket No. MG90–06–001, Canyon Creek Compression Company
Docket No. MG88–53–002, CNG Transmission Corporation
Docket No. MG89–11–004, Columbia Gas Transmission Corporation
Docket No. MG89–10–002, Columbia Gulf Transmission Company
Docket No. MG91–04–000, East Tennessee Natural Gas Company
Docket No. MG89–13–002, Green Canyon Pipe Line Company
Docket No. MG91–01–001, National Fuel Gas Supply Corporation
Docket No. MG90–02–001, Ohio River Pipeline Company
Docket No. MG88–55–003, Panhandle Eastern Pipeline Company
Docket No. MG88–11–001, Questar Pipeline Company
Docket No. MG88–06–003, Sea Robin Pipeline Company
Docket No. MG91–02–001, Southwest Gas Storage Company
Docket No. MG90–08–001, Stingray Pipeline Company
Docket No. MG88–19–003, Tennessee Gas Pipeline Company
Docket No. MG88–26–003, Texas Eastern Transmission Corporation
Docket No. MG90–07–001, Trailblazer Pipeline Company
Docket Nos. MG88–51–001 and 002, Transcontinental Gas Pipe Line Corporation
Docket No. MG88–54–002, Trunkline Gas Company
Docket No. MG90–03–001, Trunkline LNG Company
Docket No. MG88–05–003, United Gas Pipeline Company
Docket No. MG88–13–004, Valero Interstate Transmission Company
Docket No. MG90–11–002, Viking Gas Transmission Company. Order concerning Order No. 497 filings.
(C)
Docket No. MG89–16–001, Caprock Pipeline Company
Docket No. MG88–04–004, Mid Louisiana Gas Company
Docket No. MG88–08–003, MIGC, Inc.
Docket No. MG88–23–001, Superior Offshore Pipeline Company
Docket No. MG88–24–002, Texas Sea Rim Pipeline, Inc.
Docket No. MG88–33–003, Valley Gas Transmission Company. Order concerning Order No. 497 filings.
(D)
Docket No. MG92–1–000, Iroquois Gas Transmission System, L.P. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(E)
Docket No. MG92–2–000, Michigan Gas Storage Company. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(F)
Docket No. MG90–004–001, Midwestern Gas Transmission. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(G)
Docket No. MG91–05–000, Overthrust Pipeline Company. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(H)
Docket No. MG89–18–003, Seagull Interstate Corporation. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(I)
Docket No. MG88–47–002, Texas Gas Transmission Company. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
(J)
Docket No. MG91–06–000, Wyoming Interstate Company, Ltd. Order on Standards of Conduct filings under Order Nos. 497 and 497–A.
PR–2.
Docket Nos. RP91–41–001, 002, RP91–90–000 and 001, Columbia Gas Transmission Corporation. Order on rehearing.
PR–3.
Docket Nos. TQ89–1–46–033, RP86–165–012, RP86–166–017 and CP90–1984–000, Kentucky West Virginia Gas Company.
Docket No. CP90–1985–000, Columbia Gas Transmission Corporation. Order on rehearing.

II. Producer Matters

PF-1.

Reserved

III. Pipeline Certificate Matters

PC-1.

Reserved

Lois D. Cashell,

Secretary.

[FR Doc. 92-2067 Filed 1-23-92; 2:38 pm]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Matters To Be Added to the Agenda for Consideration at an Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matters will be added to the agenda for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 10:00 a.m. on Tuesday, January 28, 1992, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.:

Memorandum re: FICO Industry Semi-Annual Assessment of Savings Association Insurance Fund Members.

Memorandum re: Definition of Highly Leveraged Transactions.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: January 23, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-2027 Filed 1-23-92; 2:20 pm]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 20, 1992.

A closed meeting will be held on Friday, January 24, 1992, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Friday, January 24, 1992, at 2:30 p.m., will be:

Regulatory matter regarding financial institution.

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Litigation matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jonathan Gottlieb at (202) 272-2200.

Dated: January 22, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2028 Filed 1-23-92; 2:21 pm]

BILLING CODE 8010-01-M

UNITED STATES INSTITUTE OF PEACE

DATE: January 30, 1992.

TIME: 9:00 a.m. to 5:30 p.m.

LOCATION: 1550 M Street, N.W. (ground floor conference room), Washington, D.C.

STATUS: (Open session)—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub Law. (98-525).

AGENDA: (Tentative)—Consideration of the minutes of the fiftieth meeting of the Board of Directors; Chairman Report; President's Report; Board Committee Reports.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, telephone 202/457/1700.

Dated: January 22, 1992.

Ms. Bernice J. Carney,

Director, Office of Administration, United States Institute of Peace.

[FR Doc. 92-2055 Filed 1-23-92; 2:22 pm]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 56, No. 17
Monday, January 27, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-91-002]

Amendment to the Cotton Board Rules and Regulations

Correction

In proposed rule document 91-30001 beginning on page 65450 in the issue of Tuesday, December 17, 1991, make the following corrections:

1. On page 65450, in the third column, in the third full paragraph, in the fourth line, "$43,075,853" should read "$41,075,853".

2. On page 65451, in the first column, in the fourth full paragraph, in the third line, insert "serve" after "would"; and in the second line from the bottom, insert the phrase "of compliance, or in cases when the importer seeks an exemption" after "evidence".

§ 1205.510 [Corrected]

3. On page 65456, in § 1205.510(b)(3), in the second column of the page:

a. In the 3rd column of the table (Cents/KG.), 13 lines from the bottom, "0.6465" should read "0.6454".

b. In the first column of the table (HTS classification), five lines from the bottom, "6100303045" should read "6110303045"

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

9 CFR Part 130

[Docket No. 91-135]

RIN 0579-AA43

User Fees--Agricultural Quarantine and Inspection Services, Phytosanitary Certificates, Animal Quarantine Services, Veterinary Diagnostics, Export Health Certificates

Correction

In rule document 92-536 beginning on page 755 in the issue of Thursday, January 9, 1992, make the following correction:

On page 766, in the first column, in the fourth full paragraph, in the eighth line, after "export" insert "health certificates might be such a potential situation. Many export health".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 91-194]

Importation of Apricots, Persimmons, and Pomegranates From Sonora, Mexico

Correction

In proposed rule document 92-535 beginning on page 846 in the issue of Thursday, January 9, 1992, make the following correction:

On page 846, in the second column, under **SUPPLEMENTARY INFORMATION:**, in the third full paragraph, in the ninth line, after "Empalme," insert "Guaymas".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 91-30091 appearing on page 65466 in the issue of Tuesday, December 17, 1991, in the third column, in the eighth line from the top, "Co_2" should read "CO_2".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-4214-10; WYW 47613]

Termination of Segregative Effect of Withdrawal Application; Wyoming

Correction

In the issue of Tuesday, November 26, 1991, beginning on page 59979, in the correction of notice document 91-25383, on page 59980, in the first column, in fourth line, "63" should read "83".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-250

RIN 1215-AA73

Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era; Amendment of the Definition of Vietnam Era Veteran

Correction

In rule document 91-31334 appearing on page 498 in the issue of Monday, January 6, 1992, in the first column, in the next to last line, "Public Law 201-16," should read "Public Law 102-16,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 171

[Docket No. 24456; Amendment Nos. 71-14 and 171-16]

RIN 2120-AB95

Airspace Reclassification

Correction

In rule document 91-29869 beginning on page 65638 in the issue of Tuesday, December 17, 1991, make the following corrections:

§ 71.77 [Corrected]

1. On page 65658, in the third column, in § 71.77(b)(1), in the first line, insert "(b)" after "paragraph".

§ 171.271 [Corrected]

2. On page 65685, in the second column, in § 171.271, insert five stars above paragraph (e).

BILLING CODE 1505-01-D

Federal Register

Monday
January 27, 1992

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 3610
Mineral Materials Disposal; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3610

[AA-680-01-4142-02]

RIN 1004-AB76

Mineral Materials Disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the mineral materials sales regulations of the Bureau of Land Management (BLM) to provide longer terms for sales contracts and to allow extensions of such contracts for one additional term.

DATES: Comments should be submitted by March 27, 1992. Comments received or postmarked after the above date may not be considered in the decisionmaking process on the final rule. Comments should be sent to:

Director (140), Bureau of Land Management, Room 5555, Main Interior Building, 1849 C Street, NW., Washington, DC 20240.

Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Durga N. Rimal (202) 208-4147.

SUPPLEMENTARY INFORMATION: This proposed rule would amend 43 CFR part 3610 in order to facilitate purchase and development of federal mineral materials, principally construction aggregates, by private industry. The existing regulations are unnecessarily restrictive and only allow a maximum 10-year term, with no renewal provisions, for mineral material sales. (Extension of one year may be granted for delays caused due to circumstances beyond the control of the permittee.) The proposed rule would provide that competitive contracts for the sale of mineral materials may be made for up to 15 years, and, upon payment of the full original contract amount, and upon reappraisal, could be extended for a maximum period of another 15 years to purchase additional amounts of material from the original contract site. Experience has demonstrated that 10 years is often insufficient to develop materials sites on a scale large enough to be economic. It is likely that 15 years is sufficient for complete development of most economic sites, but allowing an extension should guarantee such development.

A provision would be added to allow the BLM to segregate tracts of land from mining claim location for a period of 2 years if the tracts are offered for competitive mineral materials sales. The segregation is needed to prevent location of mining claims while sales are being processed. Existing regulations, which are not affected by this proposed rule, do not allow sale of mineral materials from lands encumbered with mining claims.

Other changes would be made as to bonding and installment payment requirements to reduce unnecessary financial burdens on the public, while assuring that the amount of bond required is not less than that needed to accomplish the projected reclamation work, and that the initial payment is not unreasonable for large scale and long term contracts. The regulations would be further amended to allow certificates of deposit issued by Federally insured financial institutions to be used as bonds. Such certificates of deposit would be held by the BLM. Accrued interest would be returned to the purchaser.

The principal author of this proposed rule is Dr. Durga N. Rimal of the Division of Mining Law and Salable Minerals, assisted by the staff of the Division of Legislation and Regulatory Management, BLM.

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The Bureau of Land Management has determined that this proposed rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), chapter 2, appendix 1, item 1.10, and that the proposal would not significantly affect the ten criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposed rule would have little effect on costs or prices for consumers, nor would there be a need for increasing Federal, State, or local agency budget or personnel requirements. Greater demand for the Federal mineral materials would occur as the purchasers would be able to obtain long-term tenure of the resources. However, the economic impact should be minor. There should be an indirect positive impact on mining and processing operations due to economy and productivity increases resulting from extended operations. The proposed rule will not have a gross annual effect on the economy of more than $100 million, nor will it cause major increases in costs or prices for any private or government sector of the economy.

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities. The BLM issues or manages an estimated 1,900 mineral material sales contracts per year, valued at $2.8 million. The percentage of small entities involved in these contracts is unknown; small entities such as subcontractors and local construction companies are well represented. The proposal favors no demographic group, imposes no direct or indirect costs on small entities, and does not change the application process and requirements for contract issuance, which do not favor or disfavor small entities.

The Department certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. The rule will result in no taking of private property. As required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

The information collection requirement contained in this rule has been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be

required until it has been approved by the Office of Management and Budget.

List of Subjects for 43 CFR Part 3610

Government contracts, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Under the authorities cited below, part 3610, group 3600, subchapter C, chapter II, subtitle B, title 43 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3610—SALES [AMENDED]

1. The authority citation for 43 CFR part 3610 continues to read as follows:

Authority: Minerals Management Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

1a. Section 3610.0–9 is added to read as follows:

§ 3610.0–9 Information collection.

(a) The collections of information contained in subpart 3610 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0103. The information will be used to determine whether mineral materials sales contracts should be issued or extended. Response is required to obtain a benefit in accordance with 30 U.S.C. 601, 602.

(b) Public reporting burden for this information is estimated to average 0.25 per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0103, Washington, DC 20503.

Subpart 3610—Mineral Material Sales [Amended]

2. Section 3610.1–3 is amended by revising the introductory text of paragraph (a)(3) to read as follows:

§ 3610.1–3 Payments and termination by agreement.

(a) * * *

(3) May, when the sale exceeds $2,000, make installment payments of not less than $500 or 5 percent of the total purchase price, whichever is greater, and shall: (i) * * *

3. Section 3610.1–5 is amended by redesignating paragraphs (c)(2) and (c)(3) as (c)(3) and (c)(4), respectively, and by revising paragraph (a) and adding paragraph (c)(2) to read as follows:

§ 3610.1–5 Performance and reclamation bonds.

(a) The authorized officer will require, for contracts of $2,000 or more, performance and reclamation bonds, as follows:

(1) A performance bond of no less than 5 percent of total contract value.

(2) A reclamation bond of no less than $500 or an amount adequate to accomplish reclamation to the standards provided for in the contract or permit, whichever is greater. Where contract sales or permits are made from a community pit and a reclamation fee is paid by the permittee, no reclamation bond is required.

* * * * *

(c) * * *

(2) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, not in excess of the maximum insurable amount as set by the Federal Deposit Insurance Corporation, made payable to or assigned to the United States, explicitly granting the authorized officer full authority to demand immediate payment in case of default in the performance of the terms and conditions of the contract or permit, and otherwise conforming to the instructions of the authorized officer. The certificate shall explicitly indicate on its face that the authorized officer's approval is required prior to redemption of the certificate of deposit by any party;

* * * * *

4. Section 3610.3–1 is amended by adding paragraph (c) to read as follows:

§ 3610.3–1 General.

* * * * *

(c) Tracts being considered for competitive sale of mineral materials, either through application or on the initiative of the authorized officer, may be segregated from sale, location, or entry under the public land laws, including the mining laws, upon publication of a notice of segregation in the **Federal Register**. Such segregation shall continue for 2 years from the date of publication, unless the segregative effect is terminated sooner by publication of a notice in the **Federal Register**.

§ 3610.3–6 [Amended]

5. Section 3610.3–6 is amended by removing the term "10 years" and inserting instead "15 years", and by adding at the end of the section a comma and the words "or contract renewal."

6. Section 3610.3–7 is added to read as follows:

§ 3610.3–7 Contract renewal.

When the United States has received the full contract price for the purchased mineral material, the permittee may apply for extension of the contract to purchase additional material that may be available at the contract site. The request for contract extension shall be submitted at least 90 days prior to the expiration of the contract. No specific form is required. So long as all of the requirements of this paragraph are met, a one-time extension of the initial contract shall be granted by the authorized officer for a maximum additional term of 15 years. No extension may be granted without reappraisal as provided in § 3610.1–2. Prior to the extension of the contract the permittee may be required to increase or decrease the amount of the reclamation and performance bond as prescribed in § 3610.1–5, and to adopt measures to insure the prevention of unnecessary or undue degradation of the land pursuant to § 3601.1–3 of this part.

Dated: November 19, 1991.

Richard Roldan,

Deputy Assistant Secretary of the Interior.

[FR Doc. 92–1764 Filed 1–24–92; 8:45 am]

BILLING CODE 4310–84–M

federal register

Monday
January 27, 1992

Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Indoor Air Pollutants; Request for Information; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-122]

RIN 1218-AB37

Occupational Exposure to Indoor Air Pollutants; Request for Information

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of extension of the comment period.

SUMMARY: The Occupational Safety and Health Administration (OSHA) published a Request for Information on Indoor Air Pollutants on September 20, 1991 (56 FR 47892). The comment period was 120 days, ending on January 21, 1992. A written request to extend the comment period 60 days was received on January 15, 1992. The comment period is being extended for this 60 day period.

DATES: Comments should be postmarked on or before March 20, 1992.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket No. H-122, room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, room N-3649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1991 OSHA published a Request for Information (RFI) on indoor air quality issues. The issues on which comment is requested are organized into five broad categories: (1) Definition of and Health Effects Pertaining to Indoor Air Quality; (2) Monitoring and Exposure Assessment; (3) Controls; (4) Local Policies and Practices; and (5) Potential Content of Regulation. Specifically, information is requested on the definition of and the health effects attributable to poor indoor air quality; ventilation systems performance; protocols for assessing indoor air quality; mitigation methods; building maintenance programs; and the potential contents of a regulation should the Agency determine that such action is appropriate.

Extension of the Comment Period

OSHA received a written request to extend the comment period 60 days on its Request for Information (RFI) on Indoor Air Quality issues. The requestor found that the amount and complexity of information requested in the RFI could not be adequately addressed in the amount of time originally given (120 days). The Agency agreed to the request for additional time. Comments should be postmarked no later than March 20, 1992.

Authority and Signature

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 stat. 1593: 29 U.S.C. 655)

Signed at Washington, DC, this 21st day of January 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92-1827 Filed 1-24-92; 8:45 am]

BILLING CODE 4510-26-M

federal register

Monday
January 27, 1992

Part IV

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for September 1991

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-53147; FRL 4044-4]

Premanufacture Notices; Monthly Status Report for September 1991

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for September 1991.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPPTS-53147)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC 20460 (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during September; (b) PMNs received previously and still under review at the end of September; (c) PMNs for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September; and (e) PMNs for which the review period has been suspended. Therefore, the September 1991 PMN Status Report is being published.

Dated: January 21, 1992.

Ruby N. Boyd,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for SEPTEMBER 1991.

I. 125 Premanufacture notices and exemption requests received during the month:

PMN No.

P 91-1370 P 91-1371 P 91-1372 P 91-1373
P 91-1374 P 91-1375 P 91-1376 P 91-1377
P 91-1378 P 91-1379 P 91-1380 P 91-1381
P 91-1382 P 91-1383 P 91-1384 P 91-1385
P 91-1386 P 91-1387 P 91-1388 P 91-1389
P 91-1390 P 91-1391 P 91-1392 P 91-1393
P 91-1394 P 91-1395 P 91-1396 P 91-1397
P 91-1398 P 91-1399 P 91-1400 P 91-1401
P 91-1402 P 91-1403 P 91-1404 P 91-1405
P 91-1406 P 91-1407 P 91-1408 P 91-1409
P 91-1410 P 91-1411 P 91-1412 P 91-1413
P 91-1414 P 91-1415 P 91-1416 P 91-1417
P 91-1418 P 91-1419 P 91-1420 P 91-1421
P 91-1422 P 91-1423 P 91-1424 P 91-1425
P 91-1426 P 91-1427 P 91-1428 P 91-1429
P 91-1430 P 91-1431 P 91-1432 P 91-1433
P 91-1434 P 91-1435 P 91-1436 P 91-1437
P 91-1438 P 91-1439 P 91-1440 P 91-1441
P 91-1442 P 91-1443 P 91-1444 P 91-1445
P 91-1446 P 91-1447 P 91-1448 P 91-1449
P 91-1450 P 91-1451 P 91-1452 P 91-1453
P 91-1454 P 91-1455 P 91-1456 P 91-1457
P 91-1458 P 91-1459 P 91-1460 P 91-1461
P 91-1462 P 91-1463 P 91-1464 P 91-1465
Y 91-0214 Y 91-0215 Y 91-0216 Y 91-0217
Y 91-0218 Y 91-0219 Y 91-0220 Y 91-0221
Y 91-0222 Y 91-0223 Y 91-0224 Y 91-0225
Y 91-0226 Y 91-0227 Y 91-0228 Y 91-0229
Y 91-0230 Y 91-0231 Y 91-0232 Y 91-0233
Y 91-0234 Y 91-0235 Y 91-0236 Y 91-0237
Y 91-0238 Y 91-0239 Y 91-0240 Y 91-0241
Y 91-0242

II. 313 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237 P 84-0660 P 85-0433 P 85-0619
P 85-1184 P 86-1489 P 86-1607 P 87-0105
P 87-0323 P 87-0502 P 87-1872 P 88-0831
P 88-0998 P 88-1271 P 88-1272 P 88-1273
P 88-1274 P 88-1682 P 88-1753 P 88-1807
P 88-1809 P 88-1811 P 88-1937 P 88-1938
P 88-1980 P 88-1982 P 88-1984 P 88-1985
P 88-1999 P 88-2000 P 88-2001 P 88-2100
P 88-2169 P 88-2196 P 88-2212 P 88-2213
P 88-2228 P 88-2229 P 88-2230 P 88-2236
P 88-2484 P 88-2518 P 88-2529 P 89-0089
P 89-0090 P 89-0091 P 89-0254 P 89-0321
P 89-0385 P 89-0386 P 89-0387 P 89-0396
P 89-0538 P 89-0676 P 89-0697 P 89-0721
P 89-0775 P 89-0836 P 89-0837 P 89-0867
P 89-0957 P 89-0958 P 89-0959 P 89-0963
P 89-1038 P 89-1058 P 90-0002 P 90-0009
P 90-0158 P 90-0159 P 90-0211 P 90-0237
P 90-0246 P 90-0249 P 90-0260 P 90-0261
P 90-0262 P 90-0263 P 90-0372 P 90-0441
P 90-0550 P 90-0564 P 90-0581 P 90-0603
P 90-0608 P 90-0707 P 90-1280 P 90-1311
P 90-1318 P 90-1319 P 90-1320 P 90-1321
P 90-1322 P 90-1358 P 90-1422 P 90-1464
P 90-1511 P 90-1527 P 90-1528 P 90-1529
P 90-1530 P 90-1531 P 90-1564 P 90-1592
P 90-1624 P 90-1687 P 90-1718 P 90-1720
P 90-1722 P 90-1723 P 90-1745 P 90-1797
P 90-1840 P 90-1893 P 90-1937 P 90-1965
P 90-1984 P 90-1985 P 91-0004 P 91-0051
P 91-0101 P 91-0102 P 91-0107 P 91-0108
P 91-0109 P 91-0110 P 91-0111 P 91-0112
P 91-0113 P 91-0118 P 91-0177 P 91-0178
P 91-0179 P 91-0180 P 91-0222 P 91-0228
P 91-0230 P 91-0231 P 91-0232 P 91-0233
P 91-0242 P 91-0243 P 91-0244 P 91-0245
P 91-0246 P 91-0247 P 91-0248 P 91-0288
P 91-0328 P 91-0358 P 91-0391 P 91-0442
P 91-0464 P 91-0465 P 91-0466 P 91-0467
P 91-0468 P 91-0469 P 91-0470 P 91-0471
P 91-0472 P 91-0487 P 91-0490 P 91-0501
P 91-0503 P 91-0514 P 91-0521 P 91-0532
P 91-0548 P 91-0572 P 91-0584 P 91-0600
P 91-0619 P 91-0659 P 91-0665 P 91-0666
P 91-0688 P 91-0689 P 91-0701 P 91-0732
P 91-0763 P 91-0818 P 91-0826 P 91-0827
P 91-0831 P 91-0853 P 91-0902 P 91-0903
P 91-0905 P 91-0912 P 91-0914 P 91-0915
P 91-0934 P 91-0939 P 91-0940 P 91-0941
P 91-0968 P 91-1000 P 91-1009 P 91-1010
P 91-1011 P 91-1012 P 91-1013 P 91-1014
P 91-1015 P 91-1016 P 91-1017 P 91-1018
P 91-1019 P 91-1020 P 91-1021 P 91-1022
P 91-1023 P 91-1024 P 91-1025 P 91-1026
P 91-1027 P 91-1028 P 91-1029 P 91-1030
P 91-1031 P 91-1032 P 91-1033 P 91-1034
P 91-1035 P 91-1036 P 91-1037 P 91-1038
P 91-1039 P 91-1040 P 91-1041 P 91-1042
P 91-1043 P 91-1044 P 91-1045 P 91-1046
P 91-1047 P 91-1048 P 91-1049 P 91-1050
P 91-1051 P 91-1052 P 91-1053 P 91-1054
P 91-1055 P 91-1056 P 91-1057 P 91-1058
P 91-1059 P 91-1060 P 91-1061 P 91-1062
P 91-1063 P 91-1064 P 91-1065 P 91-1066
P 91-1067 P 91-1068 P 91-1069 P 91-1070
P 91-1071 P 91-1072 P 91-1073 P 91-1074
P 91-1075 P 91-1077 P 91-1116 P 91-1117
P 91-1118 P 91-1131 P 91-1153 P 91-1161
P 91-1162 P 91-1163 P 91-1190 P 91-1191
P 91-1206 P 91-1210 P 91-1231 P 91-1232
P 91-1233 P 91-1234 P 91-1235 P 91-1239
P 91-1240 P 91-1243 P 91-1250 P 91-1269

P 91-1279 P 91-1280 P 91-1281 P 91-1282
P 91-1283 P 91-1288 P 91-1289 P 91-1296
P 91-1297 P 91-1298 P 91-1299 P 91-1305
P 91-1321 P 91-1322 P 91-1323 P 91-1324
P 91-1328 P 91-1338 P 91-1346 P 91-1347
P 91-1361 P 91-1364 P 91-1367 P 91-1368
P 91-1369

III. 137 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the inventory).

PMN No.

P 87-1555 P 89-0589 P 89-0977 P 89-0978
P 89-0979 P 89-0980 P 90-1731 P 90-1732
P 90-1973 P 91-0043 P 91-0065 P 91-0091
P 91-0145 P 91-0774 P 91-0775 P 91-0854
P 91-0855 P 91-0856 P 91-0857 P 91-0858
P 91-0859 P 91-0860 P 91-0861 P 91-0966
P 91-1080 P 91-1081 P 91-1082 P 91-1083
P 91-1084 P 91-1085 P 91-1087 P 91-1088
P 91-1089 P 91-1090 P 91-1091 P 91-1092
P 91-1093 P 91-1094 P 91-1095 P 91-1096
P 91-1097 P 91-1098 P 91-1099 P 91-1100
P 91-1103 P 91-1104 P 91-1105 P 91-1106
P 91-1107 P 91-1108 P 91-1109 P 91-1110
P 91-1111 P 91-1112 P 91-1113 P 91-1114
P 91-1115 P 91-1119 P 91-1120 P 91-1121
P 91-1130 P 91-1132 P 91-1133 P 91-1134
P 91-1135 P 91-1136 P 91-1137 P 91-1138
P 91-1139 P 91-1140 P 91-1141 P 91-1142
P 91-1144 P 91-1145 P 91-1146 P 91-1147
P 91-1148 P 91-1149 P 91-1150 P 91-1151
P 91-1152 P 91-1154 P 91-1155 P 91-1156
P 91-1157 P 91-1158 P 91-1159 P 91-1160
P 91-1165 P 91-1166 P 91-1167 P 91-1168
P 91-1169 P 91-1170 P 91-1171 P 91-1172
P 91-1174 P 91-1175 P 91-1176 P 91-1177
P 91-1178 P 91-1179 P 91-1180 P 91-1181
P 91-1182 P 91-1183 P 91-1184 P 91-1185
P 91-1186 P 91-1187 P 91-1188 P 91-1189
P 91-1192 P 91-1193 P 91-1194 P 91-1196
P 91-1201 P 91-1202 Y 91-0200 Y 91-0201
Y 91-0202 Y 91-0203 Y 91-0204 Y 91-0205
Y 91-0206 Y 91-0207 Y 91-0208 Y 91-0209
Y 91-0210 Y 91-0211 Y 91-0212 Y 91-0213
Y 91-0214 Y 91-0215 Y 91-0216 Y 91-0217
Y 91-0218

IV. 63 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 83-0835	G Substituted benzoate salt.	February 8, 1984.
P 85-0783	G Chlorinated cyclic olefin/polydiene adduct.	August 2, 1991.
P 86-0501	G Aromatic diamine.	August 7, 1989.
P 86-1489	G 19 $C_{\bullet}$ (och2 ch2)yoch2och2ch-oh.	August 23, 1988.
P 87-1122	G Substituted morpholine.	March 6, 1989.
P 87-1553	G Substituted triphenylmethane.	January 5, 1989.
P 88-0003	G Modified styrene copolymer.	February 1, 1988.
P 88-0178	1,1-Bis (*P*-diethylaminophenyl)-4,4-diphenyl-1,3-butadiene.	August 10, 1991.
P 88-1460	G 2,5-Dimercapto-1,3,4-thiadiazole reaction product.	January 4, 1990.
P 88-1914	Methyl quaternary of oxyethylated triethylenetetramine.	July 22, 1991.
P 88-2169	G Cationic terpolymer of acrylamide.	July 10, 1990.
P 88-2179	G Aliphatic epoxy monomer.	July 31, 1991.
P 88-2181	G Aliphatic epoxy monomer.	July 23, 1991.
P 89-0236	4-Dibenzylamino-2-methyl benzldehyde-diphenyl hydrazone.	August 10, 1991.
P 89-0680	G Polycycloaliphatic esters.	September 14, 1991.
P 89-0788	G Heterocylic substituted alkyl amine.	October 13, 1989.
P 89-1044	G Aromatic pyromellitic tetrapolymide.	August 8, 1991.
P 90-0220	G Silicone glycol.	July 27, 1991.
P 90-0670	G Modified diphenylmethane diisocyanate.	August 4, 1991.
P 90-0691	G Salts of acrylate-aromatic polymers.	November 2, 1990.
P 90-1289	2-Nitro-4-methoxyphenyl-1-(2-naphthoxy-3-benzo toluidide) azo.	August 19, 1991.
P 90-1364	G Fatty acidamine-organic salt.	July 9, 1991.
P 90-1809	2,5-Dibutoxy-4-(4-morpholinyl)benzenamine H2SO4)X.	August 6, 1991.
P 90-1829	G Styrene acrylic latex.	July 31, 1991.
P 90-1920	G Polyester.	June 27, 1991.
P 90-1956	G Acrylic solution resin.	August 5, 1991.
P 90-1992	G Butylene oxide/ethylene oxide copolymer.	August 7, 1991.
P 91-0068	Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, methyl esters.	March 8, 1991.
P 91-0141	G Copolyester.	August 3, 1991.
P 91-0151	G Alcohol, alkali metal salt.	February 26, 1991.
P 91-0204	G Disubstituted pyridinium bromide.	July 10, 1991.
P 91-0223	G Aliphatic diamine.	July 15, 1991.
P 91-0238	G Phenolic epoxide sulfonamide.	July 14, 1991.
P 91-0318	G 2-(Hydroxymethyl)-2-methyl-1,3-propanediol triester.	July 9, 1991.
P 91-0348	G Organometallic compound.	July 8, 1991.
P 91-0361	G Styrenated amino acrylated copolymer.	August 8, 1991.
P 91-0382	G Unsaturated, cyclic siloxane polymers.	August 5, 1991.
P 91-0385	4-Hexennitrile, 2-methyl-2-benzyl.	July 31, 1991.
P 91-0411	*N,N,N,*"N"-tetragglycidyl-4,4-methylene bis(2-ethylbenzenamine.	August 8, 1991.
P 91-0487	G Carbamine derivative.	July 22, 1991.
P 91-0496	G Poly-peridinyl siloxane.	August 10, 1991.
P 91-0551	G Glycidyl azide polymer.	July 15, 1991.
P 91-0553	G Condensation polymer, of an aromatic sulfonic acid, urea aliphatic aldehyde and a cyclic acid amine salt.	July 31, 1991.
P 91-0605	G Hydroxy modified resin.	July 2, 1991.
P 91-0608	G Alkyl chloride.	July 9, 1991.
P 91-0646	G Polysubstituted acrylic copolymer latex.	July 25, 1991.
P 91-0664	4,4'-Methylene bis benzene amine, polymer with (2-methylphenoxy)methyl oxirane and 4,4'-(methylethylidiene)bisphenol polymer with (choromethyl) oxirane..	July 11, 1991.
P 91-0720	G Modified rosin ester amide.	July 26, 1991.
P 91-0741	G Acrylic copolymer.	July 12, 1991.
P 91-0758	G Epoxy adduct.	July 31, 1991.
P 91-0761	G Reaction product of poly alkyl amines and alkyl substituted phenolic amines.	August 8, 1991.
P 91-0787	G Acrylonitrile copolymer.	August 1, 1991.

IV. 63 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 91-0788	G Acrylonnitrille copolymer	August 1, 1991.
P 91-0808	G Modified alkyd resin	August 7, 1991.
P 91-0837	G Aromatic polyether polyurethane	August 2, 1991.
P 91-0884	G Polyester resin solution	August 13, 1991.
Y 86-0216	G Polyether block polyamide copolymer	July 25, 1991.
Y 89-0040	G Aralkyl polyester diol	April 3, 1991.
Y 89-0041	G Aromatic polyester urethane	January 12, 1990.
Y 89-0154	G Tall oil fatty acid modified polyester	August 1, 1991.
Y 90-0196	G Oxyalkylated resin ester	August 7, 1991.
Y 90-0239	G Polycycloaliphatic alkyl esters	August 19, 1991.
Y 91-0115	2,5-Furanediene/ethoxyethene copolymer	July 22, 1991.

V. 26 Premanufacture notices for which the period has been suspended.

PMN No.

P 89-1038 P 91-0831 P 91-0936 P 91-0937
P 91-1086 P 91-1101 P 91-1102 P 91-1116
P 91-1117 P 91-1118 P 91-1131 P 91-1141
P 91-1143 P 91-1153 P 91-1161 P 91-1162
P 91-1163 P 91-1164 P 91-1173 P 91-1190
P 91-1191 P 91-1270 P 91-1271 P 91-1272
P 91-1273 P 91-1274

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federal register

Monday
January 27, 1992

Part V

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 256

Housing Improvement Program; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

RIN 1076-AC22

Housing Improvement Program

October 25, 1991.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is issuing a final rule revising the regulations of the Housing Improvement Program (HIP) in accordance with the requirements of HIP as a construction program for the needy. These regulations also establish standard formulas to be applied in the selection and development of priority lists of eligible applicants.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Marvin D. Morgan, Chief, Division of Housing Assistance, Bureau of Indian Affairs, Mailstop 4640-MIB, 1849 C Street, NW., Washington, DC 20240. Telephone (202) 208-5427.

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 25 U.S.C. 2 and 9. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM 8. Congressional direction contained in the FY 1984 Department of the Interior and Related Agencies Appropriation Conference Report directed the Bureau to develop a program which is more cost-effective and which meets identified housing needs.

In response to the above directive, the Bureau developed a new system to achieve the results intended. The new system was developed by a team of Bureau and tribal personnel over an extended period of time. The system was presented and discussed with tribal officials across the country. Tribal input, comments and recommendations were considered for incorporation into the proposed system.

The system is consistent with the emphasis on the government-to-government relationship between the federally recognized tribes and the federal government. The tribes will develop and maintain an inventory of housing needs that will be certified by the tribal government. Funding distribution will be based on these inventories. Tribes are encouraged to contract the HIP under Pub. L. 93-638, the Indian Self-Determination and Education Assistance Act.

Prior to the redirect, many program administrators were not following the requirements to bring a house to a standard level when doing repairs. This resulted in a large number of homes being technically ineligible for second-time services while still remaining in a substandard condition. This condition is inconsistent with the intent of the program and the intent of the redirect. Therefore, the effective date prohibiting second-time service was changed to coincide with the date Congress proposed for the redirected program to be implemented.

A new distribution system for HIP funds was developed which is based upon a valid and consistent inventory of housing needs and planned program effort that addresses tribal housing needs on a long-range planned basis. The HIP Selection Criteria were developed as a corrective action to address the weakness identified by the Inspector General and the General Accounting Office in the tribal selection process of eligible applicants for HIP assistance. The Selection Criteria were reviewed and accepted by the Inspector General and the General Accounting Office.

Comments and Changes

A proposed rule to revise the regulations contained in 25 CFR part 256 was published for public comment in the **Federal Register** on Wednesday, September 12, 1990 (55 FR 37492). Interested persons were invited to submit comments by November 13, 1990. The period for commenting on the proposed rule to 25 CFR part 256 to implement the HIP as a construction program for needy Indians, and to establish standard formulas in the selection and the development of priority lists of eligible applicants, closed on November 13, 1990. Timely comments were received from 25 respondents.

Section 256.2 Definitions

One untimely response opposed the definition of "Indian". The definition in the proposed regulation is consistent with other programs, including the definition of Indian in the Indian Self-Determination and Education Assistance Act of 1975. Therefore, no change was made.

One respondent asked that the wording: "including participation in multiple ownership" be reinstated in the definition of ownership to permit the owner of an undivided interest in a tract to be able to participate in the program. This wording was deleted because it could be misleading, sometimes interpreted to mean an applicant with an undivided interest in a multiple ownership tract could use part of that tract for a house site. This is incorrect. The applicant must have documented sole possessory interest of the site on which the HIP house is to be constructed. Thus, the owner of an undivided interest would need to obtain sole interest, through partition, in a portion of the undivided ownership in order to participate in the HIP.

One comment suggested that under § 256.2 "standard housing", language should be added requiring all mechanical, electrical, and plumbing to be done by licensed technicians. The language contained in the proposed rule requires these systems to be installed and to meet the codes. Tribes have the flexibility to hire licensed technicians to perform the required work, but these professionals are often not available on Indian Reservations, particularly the more remote locations.

One comment under § 256.2(a) suggested that the word "General" should be changed to "All". "General construction" is a standard term used in the construction trade that includes all construction.

Section 256.3 Policy

One respondent recommended that § 256.3(c) include the language "a viable work plan and the tribe being in compliance with the intent of the program". The BIA finds the recommendation appropriate since distribution of HIP funds are not only based on a consistent, valid, and certified tribal inventory of housing needs, but on a reasonable and viable work plan based on the tribal priority list, and on the implementation of the program consistent with the rules and guidelines. Thus, § 256.3(c) is changed to reflect this recommendation. The sentence will read, "The general distribution of HIP funds among tribes is based on a consistent, valid, and certified inventory of tribal housing needs, a viable work plan, and the tribe being in compliance with the intent of the program".

One respondent felt the reference to the Indian Health Service (IHS) in § 256.4(a)(2) should be deleted since the IHS no longer provided services to Category A projects in their area. Since the BIA has an agreement with the IHS for provision of water and sanitation facilities for HIP housing, and this is the only reference in the regulations, language was added to § 256.3(c), which is applicable to all categories of HIP housing. The aforementioned reference

to § 256.4(a)(2) is therefore unnecessary and has been deleted.

Another respondent commented that the HIP funding distribution should be consistent with other Public Law 93-638 funding formulas, inventories should be updated continuously, and that housing needs will fluctuate during the contract period, allowing consistent funding from year to year. Unlike other BIA programs which base their funding allocation level on land base and/or population, the HIP cannot and should not use this method. The primary goal of HIP is to eliminate substandard housing conditions on Indian reservations and in Indian communities regardless of their size or population. Because HIP funds cannot be used for other purposes, it is most reasonable to distribute them on the basis of housing needs. No HIP funding should be distributed to any tribe that does not have a housing need, or if the housing need has been met.

At present, the tribal housing inventories of need are updated every two years. Based on these inventories, the HIP funds are distributed to each tribe depending on its proportion of those total needs. Because the components of a tribal housing inventory are constantly changing through birth, death, marriage, divorce, and other factors, tribes have the opportunity to update their housing inventories every two years to properly reflect their current housing needs. In addition, given the serious limitation of HIP funding compared to existing need, it would create an unnecessary administrative burden to change inventories and resultant funding levels on a continuous basis.

With regard to the consistent tribal funding from year to year, this is entirely dependent upon the funding amounts appropriated by Congress for HIP each fiscal year.

Section 256.3(d)

Several respondents pointed out the BIA funding responsibilities are different in Alaska. Because of the vast distance to isolated, remote sites, fewer resources are available, thus, the BIA recognizes that in Alaska 95% of repairs and 35% of new total housing needs should be considered for funding determination. Therefore, § 256.3(d) is changed to reflect this difference.

Section 256.4 Program Categories

Section 256.4(a)(1): One comment said that some tribes interpret "* * * until such time as standard housing is available", to mean that a Category A can be performed on a house; and then later, a Category B can also be performed to bring the house to standard condition. By using both cost limits, a total of $22,500 could be expended on one structure. This is a misunderstanding of the regulation. The paragraph heading clearly states, in italics, that this category is for "repairs that will remain nonstandard". The questioned part, "* * * until such time as standard housing is available", clearly indicates the intent of the category is to make the house" * * * safe, more sanitary and liverable * * * "until standard housing can be obtained through Category D, or another source such as an Indian housing authority. However, to further clarify this section, the words "needing replacement" have been added as suggested in the comment. The sentence should read: "Financial assistance will be granted to finance repairs and additions to existing substandard housing needing replacement so that it is safe, more sanitary, and livable until such time as other housing in standard condition is available".

Section 256.4(a)(2): Several comments requested that the category cost limit contained in § 256.4(a)(3) should be increased. With the emphasis of the HIP on Category B, Category A should be used very sparingly, if at all, and then it should be used properly. The language of this section is misleading and not consistent with the intent of the category. Therefore, the language has been changed to "weather tightening and the repair of doors, windows, roof, electrical wiring, plumbing, and chimney." The intent is to make essential repairs, not to replace or build new, as this structure should be demolished as soon as standard housing becomes available to replace it. Eliminating inflated costs from unnecessary or excessive repairs will allow repairs in this category to continue to be made within the current cost limitation. Therefore, no increase to this limit will be made.

Section 256.4(b): One comment states there should be square footage requirements for bedrooms and kitchens under this section. Square footage minimums for standard housing are given under § 256.2 (1) (2) and (3), which apply to categories B, C, and D. Section 256.4(b)(2) specifically states that HIP projects are to meet the requirements of standard housing as defined in § 256.2. However, judgement must be exercised in some cases of older houses with bedrooms not meeting the referenced minimum. It is generally impractical and unrealistic to expand a small bedroom of approximately 90 square feet with an addition which increases the room size to 100 square feet. There are no square footage requirements for kitchens, as building codes refer to cabinet space and work surface, but not the total kitchen size.

One comment states there should be a signed grant agreement for Category B requiring the grantee to repay the grant to the program if the house is sold after completion of the repairs. This concern is adequately addressed in § 256.4(b)(5).

The same respondent would like a similar grant agreement providing for maintenance responsibility by the grantee. A HIP grant is a onetime grant as described in § 256.6(b), precluding use of the HIP for maintenance of a house after the renovation/construction is completed. Maintenance is obviously the responsibility of the grantee. It would be better for the tribes to consider such an agreement with the grantee.

Several comments suggested that the cost limit in this category should be increased, due to inflationary effects on the cost of labor and material. A nationwide cost limit on a construction program is difficult to establish, because material and labor costs vary widely. Experience has indicated that a cost limit tends to become a target, thereby inflating the program costs, and reducing the number of needy Indians that can be helped by the very limited program funding. There is also a tendency to provide oversized houses, and/or amenities not appropriate for this program. Thus, a cost limit barely adequate to renovate a house to modest, standard condition in one area may be used to provide inappropriate and unnecessary amenities and luxuries in another area. While the inappropriate house may be within the national cost limit, the unnecessary expenditures would be better used to help needy Indians who must wait for another year or more. Since neither nationally recognized construction cost estimate guides nor BIA HIP cost averages indicate that an increase is warranted at this time, the cost limit for this category will not be increased.

One respondent proposed that the section allowing the repair of rented houses be restored to the regulation. This section was removed because of problems created by the reluctance of the owners to sign the required agreement, leading to abuse of the program, wasted HIP funding, and grantees not only losing their onetime grant, but often ending up in a worse situation. Applicants living in substandard rental housing should be considered for Category D units. This is a long-term solution instead of a temporary one.

One respondent spoke favorably of the payback requirement for the category, which is already used by some tribes. One respondent felt the payback should be prorated over the five-year period. The BIA disagrees, because the purpose of the payback is to prevent sale of the repaired house by the grantee for monetary gain.

Section 256.4(c): One respondent felt the statement, "Grants are only for standard housing" should be changed to "Grants are only for substandard housing". This change would violate the intent of the HIP. The intent of this category is to move people out of substandard housing into standard housing by providing grants to make them eligible for a loan to purchase or construct a standard house. The suggested change is not programmatically acceptable.

Several respondents felt this category cost limit should also be increased; however, the data indicates that the current limit is adequate.

Section 256.4(d)(1): One comment asked that manufactured housing be allowed under this section. Grants under this section are for the construction of new standard housing. The term "manufactured housing" is used to describe many different housing products; some meet the description of standard housing, but others do not. The term "manufactured housing" will not be used for purposes of this program, because of the potential misuse of the term. However, more latitude of delivery of standard housing may be provided by changing § 256.4(d)(1) as follows, "The HIP may provide a grant for the financing of the construction of a limited amount of new standard housing, either site-built or factory-built, when it is established that the applicant has been denied housing assistance from sources other than the HIP".

The term "manufactured housing" covers a wide range of housing units that can basically be placed into two groups: (1) Mobile or trailer, and (2) modular. For purposes of the HIP, all units with an integral frame to which axles and a hitch may be attached are considered to be mobile/trailer homes. As a group, units with this type of construction have proven unsatisfactory for low-income programs because of their fragile construction and difficulty of repair, which leads to high maintenance costs and a relatively short life. For these and other reasons, the BIA has determined that mobile/trailer units are not suitable for the HIP except under exceptional circumstances, which will be decided to be on a case-by-case basis.

For purposes of this program a modular house is a "stick-built" unit assembled in a factory in two or more sections. The sections are transported to the site and placed on a conventional foundation. The design and quality of these units varies widely, but they can be superior to on-site construction because of the controlled conditions in the factory setting. Units acceptable to the HIP are available, generally at a lower cost than on-site construction. These units are particularly advantageous in remote areas where skilled labor is virtually nonexistent and transportation costs of both labor and material are high. Because of the wide variance in design and construction, it is imperative that the plans and specifications be thoroughly examined, and construction methods be inspected before consideration of purchase.

Several respondents felt the cost limits for this category should also be increased. The BIA feels that neither nationally recognized construction cost estimate guides nor BIA HIP cost averages indicate that an increase is warranted at this time. The cost limit for this category will not be increased.

Section 256.4(d)(5): Paragraph (d)(5) of this section was placed in the proposed rule in an effort to prevent the abandonment of Category D houses. Funding is too short and the need too great to have new HIP houses standing vacant, to suffer vandalism, burst water pipes, and other hazards common to vacant structures. Questions arose as to the determination of abandonment or apparent abandonment, when the grantee might only be away seeking seasonal employment, or visiting away for extended periods. One respondent felt the provision was reasonable and good; another felt it was an intrusion into the grantee's private life. Because of difficulty in determining abandonment, the BIA feels it best to delete this paragraph at this time. Nonetheless, new or repaired HIP houses standing vacant raises the issue of wasted funds. Further study will be done to develop criteria for house abandonment.

Section 256.5 Application

One respondent felt that a declination from the tribe in which the applicant is enrolled should be required before determining eligibility for assistance by the tribe to which he/she applied. This is inconsistent with established policy of the HIP. Tribal HIP funding is based upon a valid, certified inventory of all Indian housing needs within a tribe's service area, regardless of tribal affiliations. To clarify the intent, the following sentence is added to this section: "Nonmember Indians apply for assistance through the tribe within whose jurisdiction his/her domicile is located".

Section 256.6 Eligibility

(b) Many respondents felt the date change should coincide with the date of implementation of the redirected HIP (October 1, 1986) instead of the date of notification to change the HIP (October 1, 1983). This is a logical argument, as many units assisted between those dates continued to be served in the same inadequate fashion that caused the redirected HIP to be implemented. However, many of the same respondents felt those served between July 1, 1975, and October 1, 1986, should be ranked lower than those eligible applicants who have never received any assistance through the HIP. It is recognized these houses were probably inadequately served, but applicants who were never served should have preference.

(c) It was felt that the language added to the last sentence of this paragraph to allow applicants who have not received any Federal housing assistance to be served before HUD participants get assistance a second-time, was excessively restrictive and became unnecessary upon inclusion of § 256.7(f) Factor No. 6 in the Selection Criteria. Thus, the words "* * * and only after housing needs identified on the HIP inventory of all eligible Indian have been met" have been deleted.

Section 256.8 Program Implementation

Respondents pointed out current implementation processes were excluded, and suggested that for clarify they be inserted (h) as follows:

(h) The HIP will serve those eligible applicants on an approved priority list. Design, construction, and repair of dwelling units may be accomplished through:

1. Direct grants to individual applicants,
2. Contracts with Indian tribes,
3. Contracts with private Indian or non-Indian contracting firms in accordance with normal BIA contract procedures, or
4. Programs administered directly by the BIA.

Waivers

Two respondents wanted waivers put back in these regulations. Waivers are adequately covered in 25 CFR 1.2.

Section 256.10 Appeals

One respondent wanted the term "Superintendent" put back in this section. However, not all locations are served by Superintendents. The change

reflects current situations in some locations.

Section 256.12

Some respondents pointed out that § 256.12 did not follow the language of §§ 256.3(a) and 256.5. This required a change to correct the error. The new language is, "Individuals who wish to participate in the HIP must contact the tribe in whose jurisdiction they reside, or the BIA office closest to applicant's residence".

The information collection requirements contained in § 256.5 HIP application, Form BIA 6407, have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq., and assigned clearance number 1076–0084. The information is being collected to obtain a benefit. Public reporting for this information collection is estimated to average 30 minutes per response which includes time reviewing instructions, gathering and maintaining data and completing and reviewing the information collection. Direct comments regarding the burden estimate or any other aspect of this form to Management Analyst, 1951 Constitution Avenue, NW., MS–357–SIB, Washington, DC 20245; and the Office of Management and Budget, Paperwork Reduction Project 1076–0084, Washington, DC 20503. The primary author of this document is A. Ronald Thurman, Housing Program Specialist, Division of Housing Assistance.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601).

Since this document does not constitute a major Federal action significantly affecting the quality of the human environment in accordance with the National Environmental Policy Act of 1969, no environmental assessment or impact statements are required.

List of Subjects in 25 CFR Part 256

Grant programs—home improvement, Indians, reporting, and recordkeeping requirements.

For the reasons set forth in the preamble, title 25, chapter I, subchapter K is amended by revising part 256, Housing Improvement Program, of the Code of Federal Regulations as follows:

PART 256—HOUSING IMPROVEMENT PROGRAM

Sec.

Authority: 42 Stat. 208. (25 U.S.C. 13).

§ 256.1 Purpose.

The purpose of this part is to prescribe the terms and conditions under which assistance is given to Indians under the Housing Improvement Program (HIP).

§ 256.2 Definitions.

As used in this part 256:

Area Director means the Officer in charge of one of the Bureau of Indian Affairs Area Offices, or his/her authorized delegate.

Assistant Secretary means the Assistant Secretary—Indian Affairs, or his/her authorized representative.

Dilapidated means a state of disrepair.

Family means one or more persons maintaining a household.

Handicapped means legally blind; legally deaf; lack of or inability to use one or more limbs; chair or bed bedbound; inability to walk without crutches or walker; mental disability in an adult of a severity that requires a companion to aid in basic needs, such as dressing, preparing food, etc., or severe heart and/or respiratory problems preventing even minor exertion.

Indian means any person who is a member of any of those tribes listed in the **Federal Register** pursuant to 25 CFR part 83 as recognized by and receiving services from the Bureau of Indian Affairs.

Nonmember Indian means any person who is a member of a Federally recognized tribe living in another tribe's approved service area.

Ownership means having fee title, trust title, leasehold interest, use permit, indefinite assignment or other exclusive possessory interest. In the case of Alaska, the term also includes one who the Superintendent determines has a reasonable prospect of becoming an owner, in accordance with the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688).

Secretary means the Secretary of the Interior.

Service area means reservations (former reservations in Oklahoma), and allotments, restricted lands, Indian-owned fee lands (including lands owned by Corporations established pursuant to the Alaska Native Claims Settlement Act) within a geographical area designated by the tribe, and approved by the Area Director to which equitable services can be delivered.

Standard Housing means a dwelling in a condition which is decent, safe, and sanitary so that it meets the following minimum standards;

(a) General construction conforms to applicable tribal, county, state or national codes and to appropriate building standards for the region.

(b) The heating system has the capacity to maintain a minimum temperature of 70 degrees in the dwelling during the coldest weather in the area. It must be safe to operate and maintain and deliver a uniform distribution of heat.

(c) The plumbing system includes a properly installed system of piping and fixtures.

(d) The electrical system includes wiring and equipment properly installed to safely supply electrical energy for lighting and for the operation of appliances.

(e) Occupants per dwelling do not exceed these limits:

(1) Two-bedroom dwelling: Up to four persons;

(2) Three-bedroom dwelling: Up to seven persons;

(3) Four-bedroom dwelling: Adequate for all but the very largest families;

(f) Bedroom size: The first bedroom must have at least 120 sq. ft. of floor space, additional bedrooms must have a minimum of 100 sq. ft. of floor space each.

(g) Two exceptions to standard housing will be permitted:

(1) Where one or more of the utilities are not available and there is no prospect of the utilities becoming available; and

(2) In areas of severe climate, house size may be reduced to meet applicable building standards of the region.

(g) The house site must be chosen so that access to utilities is most economical, the ingress and egress are adequate and aesthetics and proximity to school bus routes are considered.

Superintendent means the Officer in charge of the Agency or other local office of the Bureau of Indian Affairs.

Tribe means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native Village which is federally recognized as eligible by the United States Government for the special programs and services provided by the Secretary to Indian tribes because of their status as Indians.

§ 256.3 Policy.

(a) The Bureau of Indian Affairs' housing policy is consistent with the specific objectives of the national housing policy which declares that every American family should have the opportunity for a decent home and suitable living environment. To the maximum extent possible, tribes will be involved in the administration of the program.

(b) Every Indian, as defined in § 256.2 and eligible pursuant to § 256.6, is entitled to participate in this program irrespective of tribal affiliation, provided equitable services can be delivered to the geographic area within which they reside.

(c) The general distribution of HIP funds among tribes is based on a consistent, valid, and certified inventory of tribal housing needs, a viable work plan, and the tribe being in compliance with the intent of the program. Every effort will be made to use HIP funds in conjunction with other programs so that the result will be a greater amount of housing improvements than would otherwise be possible with the HIP funds alone. An example of this is the agreement with the Indian Health Services to provide water and sanitation facilities for HIP houses. In cases where training programs are used in conjunction with the HIP, funds are to be limited to the purchase of materials, and to the provision of inspection and skilled labor which are otherwise not available.

(d) Tribal allocation levels are determined on the basis of the HIP's responsibility of the total housing needs derived from the tribal inventories of need. The emphasis of the HIP will be on repair and renovation of existing housing while other federally-assisted programs are responsible for the bulk of the new house building effort. As such, the BIA's funding calculations are based on 90% of the repair need and up to 10% of the new construction need indicated by tribal housing inventories. (The exception is Alaska, where the percentage is 95% of repairs and 35% of new construction). The HIP may provide a grant for the financing of the construction of a limited amount of new standard housing when it is established that the applicant has been denied housing assistance from sources other than the HIP. Thus, each fiscal year, the BIA will allocate funds appropriated for HIP in proportion to the identified housing needs.

§ 256.4 Program categories.

The HIP will provide assistance in the following categories:

(a) *Repairs that will remain nonstandard.* Under this category:

(1) Financial assistance will be granted to finance repairs and additions to existing substandard housing needing replacement so that it is safe, more sanitary, and livable until such time as standard housing is available.

(2) The standard to be applied in deciding whether to provide assistance is improvement in the condition of the house, i.e., improved livability or reduced health and safety hazards, even though it may be obvious that such an undertaking will not improve the house to the extent that it will meet the standard of decent, safe, and sanitary. Examples of the improvement that may be undertaken are: Weather tightening and the repair of doors, windows, roof, electrical wiring, plumbing, and chimney.

(3) The cumulative total expenditure of the HIP funds shall not exceed $2,500 for any one dwelling.

(4) The funds shall be granted and no restrictions on the use of the home may be imposed.

(b) *Repairs to housing that will become standard.* Under this category:

(1) Financial assistance will be granted to finance repairs, renovation and/or enlargement of existing structurally sound, but deteriorated dwellings which can economically be placed in a standard condition.

(2) Upon completion of work, the dwelling shall fit the definition of standard housing as defined in § 256.2.

(3) The total expenditure of the HIP Program Funds shall not exceed $20,000 for any one dwelling. (In the case of Alaska, reasonable, substantiated freight costs in accordance with Federal Property Management Regulation (FPMR) 101–40, not to exceed 100% of the material cost, may be added).

(4) Undertakings under this category are for applicants who are living in their own homes.

(5) The applicant must sign a written agreement that if he/she sells the house within five years following the date of completion of the repairs, the grant will be voided and the grantee will repay the full amount of the grant at the time of settlement to the Bureau of Indian Affairs.

(c) *Down Payments.* Under this category:

(1) The HIP provides grants in order to make the applicant eligible to receive housing loans from tribal, Federal or other sources of credit. The applicant must establish that he/she has an inadequate income of limited financial resources to meet the full cost of the loan. Grants are only for standard housing.

(2) The grant shall not exceed the amount necessary to secure the loan plus the closing costs or ten percent (10%) of the purchase price of the house plus the closing costs or $5,000, whichever is less. (In the case of Alaska, the grant amount shall not exceed $6,000).

(3) The method of advancing the grant must ensure that the funds are used for the purpose intended. The applicant must sign a written agreement that if he/she sells the house within five years following the date of purchase, the grant is voided and the amount of the grant will be fully repaid by the grantee to the Bureau of Indian Affairs at time of settlement.

(d) *New housing.* Under this category:

(1) The HIP may provide a grant for the financing of the construction of a limited amount of new standard housing, either site-built or factory-built, when it is established that the applicant has been denied housing assistance from sources other than the HIP.

(2) The housing provided under this category must meet the housing standards of this Part. Mobile units with an integral frame are specifically excluded.

(3) The total expenditure of HIP funds shall not exceed $45,000 for a dwelling and equipment. (In the case of Alaska, the total expenditure of funds shall not exceed $55,000, plus reasonable, substantiated freight costs in accordance with FPMR 101–40, not to exceed 100% of the materials cost). The occupant will be responsible for all maintenance of the completed dwelling and all utility fees, deposits or costs required for service.

(4) The applicant must have ownership of the land on which the house is located. In the case of a leasehold interest, it must be for not less than 25 years. The applicant must sign a written agreement that if he/she sells the house within the first ten years from the date of ownership, the grant is voided and the full amount of the HIP grant will be repaid by the grantee to the Bureau of Indian Affairs at time of settlement. Subsequent to the first ten years, if the grantee sells the house, he/she may retain 10% of the original grant amount per year beginning in the eleventh year, with the remaining

amount to be repaid to the Bureau of Indian Affairs. If the sale occurs twenty years or more after the date of ownership, no repayment of any part of the grant will be due the Bureau of Indian Affairs.

(5) Adequate fire insurance, where determined feasible, must be carried.

§ 256.5 HIP application.

Individuals wishing to participate in the Housing Improvement Program must fill out BIA Form 6407. Application forms may be obtained from tribes or the nearest Bureau of Indian Affairs Office. Completed applications should be submitted to tribes or the nearest BIA office, where applicable. Each application for assistance should be approved by the tribe. Nonmember Indians apply for assistance through the tribe in whose jurisdiction they reside.

§ 256.6 Eligibility.

(a) To establish eligibility for selection to receive a grant under § 256.7, an applicant must show that:

(1) The applicant is an Indian.

(2) The present housing of the applicant is substandard or inadequate in terms of capacity to meet the physical needs of the family.

(3) The applicant has been denied, or is ineligible for, housing assistance from sources other than the HIP.

(4) The economic resources of the applicant are inadequate or factors exist which make the applicant unable to obtain housing from other local, state or Federal sources. Applicants whose annual income exceeds the Department of Health and Human Services Poverty Income Guidelines by 225% or more shall be ineligible for HIP assistance on the basis of need. Determination of eligibility will be made on a case-by-case basis.

(5) The applicant for assistance under one of the categories in § 256.4 meets the ownership requirements given under that category.

(b) After October 1, 1986, an applicant may only receive assistance once under categories given in paragraphs (b), (c), or (d) of § 256.4.

(c) The Department of Housing and Urban Development (HUD) financed houses under the administration of an Indian Housing Authority (IHA) will not be eligible for assistance until the end of the entire project indebtedness to the Federal Government.

§ 256.7 HIP selection criteria.

Once the eligibility requirements of § 256.6 are satisfied, development of priority lists of eligible applicants shall be accomplished by a ranking system based on six basic factors of need: Annual income, family size, overcrowded living conditions, age, handicap or disability, and HUD-IHA financed housing. Eligible applicants may receive points for any or all of these six factors. Priority will be given relative to the number of points received. Appendix A to this provides a summary of selection criteria.

(a) *Factor No. 1—Annual Household Income* (Up to 40 points available).

(1) The eligible applicant's total annual household income and other resources, if any, must be evaluated in order to determine priority in terms of degree of poverty. If an individual is counted as a family member for the purpose of determining Family Size (Factor No. 2), the annual income of that person must be included in the total annual household income on the HIP application. Examples of income which must be included are royalties and onetime income. A specific definition of the type of resources which must be included is set forth in 25 CFR part 20.

(2) In order to determine whether or not the applicant is entitled to points under Factor No. 1, it is necessary to compare the total combined annual household income against the Federal Poverty Income Guidelines which are published annually by the Department of Health and Human Services. The most current issue of the Guidelines published in the **Federal Register** by Health and Human Services (HHS) will be used during the selection process. A yardstick for determining applicant income priority is provided based upon 125% of the Poverty Income Guidelines. In addition, even greater point values are available for applicants whose annual income falls substantially (25% or more) below the poverty level. In order to facilitate calculations, a chart of the various income levels is provided to each tribe annually upon publication of new revised Poverty Guidelines by HHS each year.

(b) *Factor No. 2—Family Size* (5 points per dependent child). A dependent child for purposes of this subsection is a person meeting the definition of "child" in 25 CFR part 20.

(c) *Factor No. 3—Overcrowded Living Conditions* (Up to 10 points possible).

(1) The definition of "standard housing" identifies the acceptable limits for family size per dwelling (see § 256.2). In order to earn points under Factor No. 3, the applicant family must exceed the limits for its dwelling established in § 256.2. A family is overcrowded if:

(i) Three or more persons occupy a one-bedroom dwelling.

(ii) Five or more persons occupy a two-bedroom dwelling.

(iii) Eight or more persons occupy a three-bedroom dwelling.

(2) Depending upon the circumstances and the degree of overcrowding, as well as the family structure, the committee reviewing HIP applications can award as little as 1 point, or as many as 10 points, for the overcrowding factor.

(3) The preceding overcrowded living description is not feasible in Alaska where, because of the unique climatic conditions, a dwelling is frequently not divided into the conventional room arrangement customary in the contiguous 48 states. Recommended guidelines for Alaska only are therefore based upon gross square feet per occupant, ranging from 2 to 10 points for Factor No. 3. (See Appendix A to this part.)

(d) *Factor No. 4—Age*—(1) *Elderly couple.* (Up to 21 points per individual available.) Points are awarded based upon age, beginning at age 55, with a maximum of 21 points per elderly person available. Appendix B to this part is a schedule, by age, of the number of points to be awarded in this category. If an applicant family has an elderly relative who is a permanent household member, points are added to the application for this person.

(2) *Single, Elderly, Living Alone* (Up to 32 points). Special priority amounting to 150% of the Factor No. 4 standard schedule, as identified in paragraph (d)(1) of this section, is provided only for an elderly individual living alone and applying for a grant from HIP. An elderly widower/widow, age 70, living by him/herself plus 50% (8 points) adds up to a total of 24 points. In calculating allowable points using the schedule shown in appendix B, decimals should be eliminated by rounding to the next higher whole number.

(e) *Factor No. 5—Handicap or Disability* (Up to 20 points available per application).

(1) The many and varied degrees and types of disability present a complex ranking situation. A general definition of handicapped is provided as a guide. The selection committee evaluating HIP applications shall determine the number of points, up to the maximum of 20, merited by the applicant (or family member) based upon the degree of disability.

(2) Applicants should provide as much documentation as possible concerning the disabled person's condition. This could include a doctor's certification, Veteran's Administration determination, Social Security determination of degree of disability, or similar information which would assist the HIP committee in its point calculation.

(f) *Factor No. 6—HUD/IHA Financed Houses* (Deduct 30 points). A deduction of 30 points shall be applied to applicants who own HUD–IHA houses after the project indebtedness ends, as described in § 256.6(c). These houses represent new standard housing obtained with Federal housing assistance.

(g) *Tie Breaker.* If two applications are assigned the same number of points, two considerations will determine which application has priority.

(1) Tie Breaker No. 1—The applicant living in the most dilapidated conditions will receive priority.

(2) Tie Breaker No. 2—The family with the lower income will be served first.

§ 256.8 Program Implementation.

The HIP will be implemented either by means of Public Law 93–638 contracts with the tribes, or administered directly by BIA, according to the HIP plans and priority of the tribe served. The HIP consists of two parts: Receipt, review, and screening of applications submitted by Indians for housing assistance, determination of eligibility, and development of applicant priority lists; and design, construction, and repair/renovation of dwelling units. The implementation of HIP will be accomplished as follows:

(a) Develop and maintain a consistent and valid tribal inventory of needs.

(b) Select families and/or individuals for assistance. To accomplish this task:

(1) A current inventory of HIP applicants shall be developed.

(2) All HIP applications shall be received, reviewed, and screened.

(3) The BIA will ensure that HIP applications contain adequate information to determine eligibility. At a minimum, each application must include the information required in § 256.6, i.e., name, family size, income, and financial status, condition of present housing, the type of housing assistance requested (Category A, B, C or D).

(4) A determination shall be made as to which HIP applicants are eligible to receive assistance and a priority list of applicants developed in accordance with the HIP Selection Criteria under § 256.7.

(5) The type of assistance to be provided each selected applicant, the estimated cost, and construction schedule thereof shall be determined.

(c) Applicant Case File. A case file shall be kept on each approved applicant. The case file shall contain at a minimum:

(1) Tribal enrollment information.

(2) The condition of existing housing.

(3) Family size and composition.

(4) Income.

(5) Evidence of the inability of the applicant to secure housing from other sources.

(6) Evidence that the applicant has not received HIP assistance after October 1, 1986.

The case file shall become a part of the record and must be retained for at least three years after the completion of the project.

(d) Construction Work Plan—Repair and renovation of existing housing or construction of new housing. A work plan shall be prepared specifying, by HIP Categories, the number of housing units to be repaired, renovated or built new. The repair, renovation, and new housing construction work shown on the plan must be consistent with the housing assistance work specified on the priority list for each applicant. The plan shall include the following:

(1) Category A Nonstandard Repairs. This category shall include a description of each repair to be performed, the cost estimate for each repair, the location of each unit to be repaired, a schedule, and the name of each applicant that is receiving this assistance.

(2) Category B Standard Repairs and Category D New Housing. This category shall include location of each unit to be repaired or built new, and the names of applicants to receive these units. In addition, for Category B repairs and Category D new housing, the plan shall also include preliminary drawings, specifications, cost estimates, and a phased construction schedule for each unit to be repaired, renovated, or built new. Drawings should fix and illustrate what is required to repair or build new houses by providing, when applicable: A design, elevations, unit and room total square feet, general construction, placement of heating mechanical, electrical, and utility systems, site layout for grading and utility distribution. Specifications should describe clearly the scope of work to repair or build a new house, the workmanship involved, and a statement describing the quality of materials.

(3) Category C Down Payments. This category shall include a description and location of the house to be purchased, verification of the applicant's intent to purchase a standard house, the sale price of the house, and a verification by the lender as to the amount of down payment and closing costs required for the applicant to qualify for the loan.

(e) Construction Start and Completion Dates. An anticipated construction start and completion date for each repair and new construction project to be performed shall be established. The construction start time should consider such factors as weather, location, family participation, availability of materials, and site preparation. All HIP recipients listed on the priority list must be notified of the work to be performed.

(f) Applicable Codes. Depending upon the type of construction involved, the appropriate local codes will be followed. If local codes are not available, applicable State or National codes will be followed.

(g) Reporting Requirements. Quarterly reports shall be prepared on construction work undertaken and expenditures related to that construction work. The quarterly reports are due on the 15th day after the end of each calendar quarter, and shall contain for each HIP grant, at a minimum:

(1) Name of Grantee.

(2) Date of Construction start.

(3) Date of Completion.

(4) Cost.

(h) The HIP will serve those eligible applicants on an approved priority list. Design, construction, and repair of dwelling units may be accomplished through:

(1) Direct grants to individual applicants.

(2) Contracts or grant agreements with Indian tribes.

(3) Contracts with private Indian or non-Indian contracting firms in accordance with normal BIA contract procedures; or

(4) Programs administered directly by the BIA.

§ 256.9 Inspections.

(a) The BIA is responsible for inspection or the assurance that there is adequate provision for inspection by BIA employees, contractors, or subcontractors during the course of construction. The BIA shall have access at all reasonable times to work under contract for monitoring and inspection.

(b) Final payment for work performed will not be made until a final inspection is conducted by the BIA, and a determination is made that the work complies with all contract requirements.

§ 256.10 Appeals.

Actions taken by BIA officials may be appealed pursuant to part 2 of this chapter.

§ 256.11 Flood Disaster Protection.

No HIP funds, under Categories in paragraphs (b), (c), and (d) of § 256.4, will be expended in areas designated as having special flood hazards under the Flood Disaster Protection Act of 1973 (Public Law 93–234, 87 Stat. 977), unless the requirements for suitable flood insurance are met.

§ 256.12 Information Collection.

The information collection requirements contained in § 256.5 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0084. The information will be used to determine eligibility to participate in the HIP. Individuals who wish to participate in the HIP must contact the tribe in whose jurisdiction they reside, or the BIA office closest to their residence. Eligibility is determined based upon the criteria listed in § 256.6. Response is required to obtain a benefit. Public reporting burden for this form is estimated to average thirty minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form.

APPENDIX A.—SUMMARY OF SELECTION CRITERIA—POINT SCHEDULE

If applicant is	Add
Factor No. 1: Income (Up to 40 points):	
At or below 125% of Poverty Income Guidelines	10
Between 100% and 76% of Poverty Income Guidelines	20
Between 75% and 51% of Poverty Income Guidelines	30
At or below 50% of Poverty Income Guidelines	40
If applicant is	**Deduct**
Deduction Schedule for Income in Excess of Poverty Income Guidelines (Maximum deduction of 40 points):	
Over 125% of Poverty Income Guidelines	0
At or over 150% of Poverty Income Guidelines	−10
At or over 175% of Poverty Income Guidelines	−20

APPENDIX A.—SUMMARY OF SELECTION CRITERIA—POINT SCHEDULE—Continued

If applicant is	Add
At or over 200% of Poverty Income Guidelines	−30
201% to 224% of Poverty Income Guidelines	−40
	Add
Factor No. 2: Family Size (5 points per dependent child):	
Single applicant, no children	0
Single applicant, one child	5
Married couple, no children	0
Married couple, one child	5
Married or single, each additional child	5
Factor No. 3: Overcrowded Conditions (Add up to 10 Points):	
Contiguous 48 States—Depending upon the circumstances and the degree of overcrowding, as well as the family structure, the committee reviewing HIP applications can award as little as 1 point, or as many as 10 points, for overcrowding.	
Alternative Point System for Alaska only	**Add**
0–50 square feet per person	10
51–100 square feet per person	8
101–150 square feet per person	6
151–200 square feet per person	4
201–300 square feet per person	2
Factor No. 4: Age (Add up to 21 points) (See Appendix B):	
Age 55 and older, one point per year up to 75 years.	
Single Elderly, living alone = 150% of Elderly schedule.	
Factor No. 5: Handicapped and Disabled (Add up to 20 points):	
Points will be awarded based upon extent of disability.	
Factor No. 6: HUD/IHA Financed Houses (Deduct 30 Points).	

APPENDIX B—HIP SELECTION CRITERIA

[Factor No. 4—Age]

Age	Family member—100%; Add points	Living alone—150%; Add points
55	1	2
56	2	3
57	3	5
58	4	6
59	5	8
60	6	9
61	7	11
62	8	12
63	9	14
64	10	15
65	11	17
66	12	18
67	13	20
68	14	21
69	15	23
70	16	24
71	17	26
72	18	27
73	19	29
74	20	30
75 & Over	21	32

Dated: October 25, 1991.

David J. Matheson,

Acting Assistant Secretary—Indian Affairs.

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LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869-013-00001-3)	$12.00	Jan. 1, 1991
3 (1990 Compilation and Parts 100 and 101)	(869-013-00002-1)	14.00	[1] Jan. 1, 1991
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individual copies		2.00	1992

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991 The CFR volume issued July 1, 1989, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1990 to June 30, 1991 The CFR volume issued July 1, 1990, should be retained.